

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of SALLY M. WORTHINGTON and U.S. POSTAL SERVICE,  
POST OFFICE, Springfield, Mass.

*Docket No. 96-2480; Submitted on the Record;  
Issued September 17, 1998*

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DECISION and ORDER

Before MICHAEL E. GROOM, BRADLEY T. KNOTT,  
A. PETER KANJORSKI

The issue is whether appellant has met her burden of proof in establishing that she had disability on or after July 8, 1995 causally related to the accepted March 27, 1995 lumbar strain.

On April 3, 1995 appellant, then a 47-year-old mail carrier, filed a claim for a March 27, 1995 back injury which she sustained while unloading mail from the truck at Norwich University. The Office of Workers' Compensation Programs accepted the claim for lumbar strain, and informed appellant that in the event of her absence from work due to the effects of the injury exceeding 45 days, she could claim wage-loss compensation on Form CA-7.

On July 21, 1995 appellant filed a claim for continuing compensation on account of disability (Form CA-8) for wage-loss benefits from July 8 through July 21, 1995. Forms CA-8 for intermittent periods were submitted thereafter.

In an August 7, 1995 letter, the Office advised the employing establishment that as appellant's date of injury was March 27, 1995, her continuation of pay should have started on March 27, 1995 not April 11, 1995 and ended on June 3, 1995 not June 2, 1995. The Office found that appellant was not entitled to buy back leave for the period April 3 to April 7, 1995 for 26 hours of sick leave, as that period of time should have been continuation of pay. The Office found that appellant could repurchase leave for the period June 9 through July 7, 1995.<sup>1</sup> The Office advised appellant that medical evidence supporting a continued disability and a leave analysis was needed to support a buy back for the period of July 8 through July 21, 1995.

In letters dated August 28 and September 13, 1995, the Office advised appellant that they received her CA-8 forms to repurchase leave and that they needed a leave analysis and medical

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<sup>1</sup> In a decision dated August 25, 1995, the Office found that appellant was eligible for \$619.50, gross compensation, for the period June 9 through July 7, 1995.

documentation before they could process the claim. Appellant was given 30 days to submit medical documentation supporting the dates she was claiming to repurchase leave.

Appellant submitted progress notes from Green Mountain Sports Physical Therapy for the period July 14 through July 24, 1995.

In an October 13, 1995 letter, the Office again, advised appellant that the medical evidence of file did not indicate that she was disabled from performing the duties of her federal position on the dates specified. Appellant was given 30 days to submit medical evidence which supports that she was physically disabled from performing her job duties due to her accepted, work-related condition or that she missed work due to authorized medical treatment of her accepted, work-related condition on the dates specified.

In a September 25, 1995 attending physician's supplemental form report (Form CA-20a), Dr. Leland W. Hall, a Board-certified orthopedic surgeon, noted that he last examined appellant on July 17, 1995 and had diagnosed a bulging disc at L4-5 and L5-S1. Dr. Hall indicated that appellant's present condition was due to the injury for which compensation was claimed. He further stated that appellant was able to resume regular work on a part-time basis starting July 30, 1995. He recommended continued physical therapy and modification of her work program. In an October 27, 1995 letter, Dr. Hall indicated that as he had not seen appellant since July 17, 1995, he was unable to estimate what her present capabilities of returning to work were.

By decision dated November 21, 1995, the Office denied appellant's claim for wage-loss benefits subsequent to July 8, 1995 on the grounds that insufficient medical evidence was submitted to support her disability on or after July 8, 1995.

In a November 7, 1995 attending physician's supplemental form report (Form CA-20a), Dr. Stacie Noble, a medical resident in anesthesiology, examined appellant on November 7, 1995 and diagnosed low back strain sustained by ergonomic stressors due to the injury for which compensation was claimed. She stated that appellant was capable of lifting light to medium weights at work. Dr. Noble issued an October 3, 1995 referral to physical therapy.

In a November 28, 1995 letter, appellant requested reconsideration and submitted additional evidence.

In a November 27, 1995 attending physician's supplemental form report (Form CA-20a), Dr. Noble stated that she examined appellant on November 27, 1995 and diagnosed a lower back pain s/p strain. She stated that appellant was able to perform limited duty and that her chronic low back pain was slowly improving after the onset of an acute strain eight months ago. She stated that appellant's current condition was due to the injury of March 27, 1995.

In a December 15, 1995 letter, the Office noted that they received appellant's application to repurchase leave for the period November 11 through December 8, 1995. The Office advised appellant to submit medical and leave analysis submitted with the CA-8 forms. Appellant was given 30 days to submit such evidence.

By decision dated February 5, 1996, the Office denied appellant's claim for wage-loss benefits for the period November 24 through December 8, 1995 on the grounds that the medical evidence she had submitted fell outside the period of time for which she was claiming. The Office noted that appellant had been advised by a December 15, 1995 letter of the type of evidence needed to establish her claim but had failed to submit such evidence.

By decision dated February 20, 1996, the Office denied modification of its prior decisions. The Office found that Dr. Noble's report indicated that appellant was able to perform limited duty for the period November 10 through December 8, 1995. The Office concluded that Dr. Noble's report did not support disability on and after July 8, 1995.

In letters dated February 15 and February 27, 1996, appellant requested reconsideration of her claim. In support of her reconsideration request, appellant submitted leave records, additional Form CA-8s and medical evidence.

In an attending physician's report dated July 28, 1995, Dr. Hall stated that appellant was totally disabled from July 17 through July 30, 1995 due to a probable herniated nucleus pulposus and checked "yes" to indicate that appellant's present condition was due to the injury for which compensation is claimed. Appellant also provided a duplicate copy of Dr. Hall's September 25, 1995 attending physician's supplemental form report.

Dr. Dennis Coombs, a Board-certified anesthesiologist, in an attending physician's report and office notes dated January 18, 1996, diagnosed appellant with the condition of sciatica and found that appellant was capable of a gradual escalation back to her full working duties. Dr. Coombs checked "yes" that the condition of sciatica was due to the injury for which compensation is claimed.

Also submitted were letters indicating that appellant was undergoing physical therapy.

In two decisions dated June 28, 1996, the Office denied reconsideration finding the evidence submitted was repetitious of that submitted to the record.

The Board finds that appellant has not established that her claimed disability on and after July 8, 1995 is causally related to the accepted March 27, 1995 lumbar strain.

An employee seeking benefits under the Federal Employees Compensation Act<sup>2</sup> has the burden of establishing that the essential elements of his or her claim, including the fact that the individual is an "employee of the United States" within the meaning of the Act, that the claim was timely filed within the applicable time limitation period of the Act, that an injury was sustained in the performance of duty as alleged, and that any disability and/or specific condition for which compensation is claimed are causally related to the employment injury.<sup>3</sup> These are the

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<sup>2</sup> 5 U.S.C. § 8101 *et seq.*

<sup>3</sup> *Joe Cameron*, 42 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.<sup>4</sup>

In the present case, the Office accepted appellant's claim for lumbar strain and authorized compensation for intermittent periods from June 9 through July 7, 1995, based on submission of Forms CA-8. As such, appellant maintained the burden of establishing entitlement of continuing disability, which was related to the employment injury.<sup>5</sup> The Office rejected compensation for the periods subsequent to July 8, 1995.

Causal relationship is a medical issue,<sup>6</sup> and the medical evidence required to establish a causal relationship, generally, is rationalized medical evidence. Rationalized medical evidence is medical evidence which includes a physician's rationalized medical opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.<sup>7</sup>

In support of her claim, appellant submitted medical reports from Drs. Hall, Noble and Coombs that addressed her medical condition on and after July 8, 1995. In a July 28, 1995 attending physician's report, Dr. Hall stated that appellant was totally disabled from July 17 through July 30, 1995 due to a probable herniated nucleus pulposus and checked "yes" to indicate that appellant's present condition was due to the injury for which compensation is claimed. Other than to check in his report that appellant was disabled "due to the injury for which compensation is claimed," Dr. Hall did not provide an opinion on the causal relationship between appellant's condition and her March 27, 1995 injury. To be of probative value to an employee's claim, a physician must provide a rationale for the opinion reached. Where no such rationale is present, the medical opinion is of diminished probative value.<sup>8</sup> Dr. Hall, in his subsequent report of September 25, 1995, noted that he examined appellant on July 17, 1995 and found that she was capable of performing her regular work on a part-time basis starting July 30, 1995. Again, Dr. Hall indicated that appellant's condition was due to the injury for which compensation is claimed by checking "yes" in the appropriate box on the Form CA-20a. Consequently, the reports by Dr. Hall, are insufficient to establish any disability after July 8, 1995. Similarly, although Dr. Noble in her November 7 and November 27, 1995 reports and Dr. Coombs, in his January 18, 1996 reports found that appellant was capable of performing limited duty, they did not provide an opinion on the causal relationship between appellant's condition and her March 27, 1995 injury, other than to check in their reports that appellant was disabled "due to the injury for which compensation is claimed." Consequently, the reports by

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<sup>4</sup> *Victor J. Woodhams*, 41 ECAB 345 (1989).

<sup>5</sup> *Donald Leroy Ballard*, 43 ECAB 876 (1992).

<sup>6</sup> *Mary J. Briggs*, 37 ECAB 578 (1986).

<sup>7</sup> *Gary L. Fowler*, 45 ECAB 365 (1994); *Victor J. Woodhams*, *supra* note 4.

<sup>8</sup> *Lucrecia M. Nielsen*, 42 ECAB 583 (1991).

Drs. Hall, Noble and Coombs, submitted by appellant in support of her claims for continuing wage-loss compensation, are insufficient to establish any disability after July 8, 1995.

The decisions of the Office of Workers' Compensation Programs dated June 28 and February 5, 1996, and November 21, 1995 are hereby affirmed.

Dated, Washington, D.C.  
September 17, 1998

Michael E. Groom  
Alternate Member

Bradley T. Knott  
Alternate Member

A. Peter Kanjorski  
Alternate Member