

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JAMES E. McCLEESE and U.S. POSTAL SERVICE,
POST OFFICE, Warren, Ohio

*Docket No. 97-1309; Submitted on the Record;
Issued February 23, 1999*

DECISION and ORDER

Before MICHAEL J. WALSH, MICHAEL E. GROOM,
A. PETER KANJORSKI

The issue is whether appellant met his burden of proof to establish that he sustained a knee condition in each knee causally related to factors of his federal employment.

On February 2, 1996 appellant, then a 49-year-old clerk, filed a notice of occupational disease alleging that he suffered degenerative disc disease of his knees and possible torn cartilage as a result of his federal employment. Appellant stated that he was not aware of the date he became aware of the disease or illness or the date he became aware that it was due to his employment.

On February 19, 1996 Dr. Wi I. Hsu, appellant's treating physician and a Board-certified orthopedic surgeon, diagnosed degenerative joint disease of the left and right knee, and a torn meniscus of the right knee. He checked "no" to indicate that the condition was not caused or aggravated by an employment activity.

On May 14, 1996 the Office of Workers' Compensation Programs requested additional information including a rationalized medical report addressing whether appellant's alleged condition was related to his employment.

By decision dated July 8, 1996, the Office denied appellant's claim because the evidence failed to demonstrate a causal relationship between the injury and the claimed condition or disability.

On November 13, 1996 appellant requested reconsideration. In support, appellant submitted a February 11, 1992 report from Dr. Nasimullah Rehmatullah, a Board-certified orthopedic surgeon, diagnosing symptomatic plantar calluses on the metatarsal phalangeal joints of little toes on both feet. He stated that this condition was related to the prolonged periods of walking on hard surfaces appellant experienced in his employment.

Appellant also submitted an April 17, 1995 report from Dr. Christopher J. Klonk, a Board-certified orthopedic surgeon, diagnosing nonunion of the fifth metatarsal head, status post fifth metatarsal osteotomy, and intermittent Achilles' tendinitis. He opined that the continuing foot problems were due to appellant's employment duties.

In a report dated February 15, 1996, Dr. Hsu stated that he treated appellant on October 23, 1995 for both feet. He indicated that appellant was previously treated by another physician for aggravation of heel spurs and Morton's neuroma due to excessive walking from his employment. Dr. Hsu diagnosed "painful heels spurs-aggravation of heel spurs; painful left fifth toe and right fourth toe due to deformity of the fore foot." He opined that appellant "developed problems with his knees as a result of chronic problems with his feet which altered his gait causing stress to his knees."

In a letter dated October 7, 1996, Dr. Hsu indicated that appellant had a 30 percent disability for his feet as a result of the pain and deformity in both feet and both heels. He stated that these conditions would worsen due to his extreme weight and the degenerative joint disease in both knees. In a separate letter dated October 7, 1996, Dr. Hsu diagnosed degenerative joint disease of both knees as a result of an abnormal gait in both feet.

By decision dated February 12, 1997, the Office reviewed the merits of the case and denied modification of its prior decision denying benefits. In an accompanying memorandum, the Office indicated that appellant failed to provide a medical opinion with medical rationale attributing appellant's knee condition to factors of his federal employment.

The Board finds that appellant did not meet his burden of proof to establish that he sustained a knee condition in each knee causally related to factors of his federal employment.

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the employment factors identified by the claimant were the proximate cause of the condition for which compensation is claimed or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant.¹ The medical evidence required to establish a causal relationship, generally, is rationalized medical opinion evidence.² Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized 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

¹ See *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

² The Board held that, in certain cases, where the causal connection is obvious, expert testimony may not be necessary; see *Naomi A. Lilly*, 10 ECAB 560, 572-73 (1959). The instant case, however, is not one of obvious causal connection.

claimant,³ must be one of reasonable medical certainty,⁴ 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.⁵

In this case, Dr. Hsu, appellant's treating physician and a Board-certified orthopedic surgeon, provided the only medical reports of record, indicating that appellant suffered a knee condition in both knees due to factors of his federal employment. On October 7, 1996 Dr. Hsu diagnosed degenerative joint disease of both knees as a result of an abnormal gait in both feet, and on February 15, 1996 he opined that appellant "developed problems with his knees as a result of chronic problems with his feet which altered his gait causing stress to his knees." He however, failed to support his opinion with sufficient medical rationale explaining how the gait condition resulted in the knees problems or why the gait problem was employment related. Moreover, Dr. Hsu failed to explain why he indicated on February 19, 1996 that appellant's knee condition was not caused or aggravated by an employment activity. Consequently, because appellant failed to provide any rationalized medical opinion evidence establishing a causal relationship between his alleged knee conditions and factors of his employment, appellant failed to meet his burden of proof.

The decisions of the Office of Workers' Compensation Programs dated February 12, 1997 and July 8, 1996 are affirmed.

Dated, Washington, D.C.
February 23, 1999

Michael J. Walsh
Chairman

Michael E. Groom
Alternate Member

A. Peter Kanjorski
Alternate Member

³ *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

⁴ *See Morris Scanlon*, 11 ECAB 384, 385 (1960).

⁵ *See James D. Carter*, 43 ECAB 113 (1991); *George A. Ross*, 43 ECAB 346 (1991); *William E. Enright*, 31 ECAB 426, 430 (1980).