

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of KENNETH J. PEUGH and DEPARTMENT OF AGRICULTURE,
FOREST SERVICE, Eureka, Calif.

*Docket No. 97-1636; Submitted on the Record;
Issued March 1, 1999*

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
BRADLEY T. KNOTT

The issue is whether appellant has met his burden to establish that he sustained an occupational disease causally related to factors of his federal employment.

On April 1, 1996 appellant, then a 48-year-old fire engine captain, filed a notice of occupational disease alleging that he suffered degenerative joint disease at L5-6 and C-strain musculoskeletal spasms, trapezius, as a result of his federal employment. Appellant stated that he became aware of the conditions on March 4, 1995 and that it was caused or aggravated by his employment on March 26, 1995. He indicated that his physician thought his conditions were work related due to the type of work he did, fire fighting, smoke jumping, operating heavy equipment, tree planting and tree climbing.

On March 1, 1995 Dr. Jose A. Sanchez, a specialist in internal medicine and nuclear medicine, treated appellant for neck pain. He noted that appellant denied any precipitating factors, but that appellant possibly fractured his C-spine in childhood. Dr. Sanchez diagnosed neck pain with muscle spasms, arthrosis of the neck and a possible long-standing C3 chip fracture.

On March 3, 1995 Dr. John N. Homan, a diagnostic radiologist, interpreted an x-ray and diagnosed degenerative disc disease at C5-6.

On March 4, 1996 Dr. Sanchez diagnosed appellant with degenerative disc disease at C5-6. He indicated that the condition, "...may be aggravated as far as direct causal relationship. It is unclear since we do not have baseline studies prior to he (sic) beginning working. In any event by nature of this work situation I feel that this probably [is] an aggravating factor."

On March 12, 1996 Dr. Homan diagnosed a mild disc space narrowing at C5-6 with no spinal stenosis or significant disc protrusion identified of the cervical spine.

On March 26, 1996 Dr. Sanchez diagnosed degenerative joint disease of the neck with mild disc space narrowing at C5, C6 with no spinal stenosis or disc protrusion.

On May 31, 1996 the Office requested additional information, including a comprehensive, unequivocal medical opinion addressing whether appellant's condition was causally related to factors of his employment.

On October 28, 1996 Dr. Phillip L. Wagner, a physician Board-certified in family practice and preventive medicine, indicated that appellant was struck across the back of the head in March or April 1990 by a falling dead snag. Dr. Wagner opined that appellant suffered from cervical disc disease due to that injury and that he had ongoing discomfort caused by degenerative disc disease progressing from that injury.

By decision dated January 30, 1997, the Office denied appellant's claim inasmuch as causal relationship was not established between appellant's alleged cervical degenerative joint disease and factors of his employment.

The Board finds that appellant did not meet his burden of proof to establish that he sustained an occupational disease 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 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 the instant case, appellant has failed to submit rationalized medical evidence establishing that he suffered an occupational disease as a result of factors of his employment.

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 casual connection.

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).

Dr. Sanchez, appellant's treating physician and a specialist in internal medicine and nuclear medicine, diagnosed degenerative disc disease at C5-6 and indicated that the condition, "...may be aggravated as far as direct causal relationship. It is unclear since we do not have baseline studies prior to he (sic) beginning working. In any event by nature of this work situation responsibility I feel that this probably [is] an aggravating factor." Because Dr. Sanchez's opinion is not supported by explanation or rationale, it is entitled to little weight.⁶ Dr. Wagner, a physician Board-certified in family practice and preventive medicine, provided the only other medical opinion of record addressing the causal relationship of appellant's condition. Dr. Wagner indicated that due to a traumatic injury appellant suffered in March or April 1990, which occurred when he was struck on the head by a falling snag, appellant suffered from cervical disc disease and ongoing discomfort caused by degenerative disc disease. Because Dr. Wagner did not attribute appellant's conditions to the employment factors implicated by appellant in his notice of occupational disease, his opinion is insufficient to meet appellant's burden of proof to establish that he sustained an occupational disease.⁷

Accordingly, the decision of the Office of Workers' Compensation dated January 30, 1997 is affirmed.

Dated, Washington, D.C.
March 1, 1999

David S. Gerson
Member

Willie T.C. Thomas
Alternate Member

Bradley T. Knott
Alternate Member

⁶ *William S. Wright*, 45 ECAB 498 (1994).

⁷ *See Woodhams*, *supra* note 1.