

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of TALMADGE L. FOREMAN and U.S. POSTAL SERVICE,  
POST OFFICE, Montgomery, AL

*Docket No. 98-698; Submitted on the Record;  
Issued November 9, 1999*

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DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS,  
MICHAEL E. GROOM

The issue is whether appellant has met his burden of proof in establishing that he sustained an injury in the performance of duty causally related to factors of his employment.

The Board has duly reviewed the case record in the present appeal and finds that appellant has failed to meet his burden of proof in establishing that he sustained an injury in the performance of duty causally related to factors of his employment.

An employee seeking benefits under the Federal Employees' Compensation Act<sup>1</sup> has the burden of establishing 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 filed within the applicable time limitations 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>2</sup> These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or occupational disease.<sup>3</sup>

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

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<sup>1</sup> 5 U.S.C. § 8101.

<sup>2</sup> *Joe Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143, 1154 (1989).

<sup>3</sup> *Victor J. Woodhams*, 41 ECAB 345 (1989).

which compensation is claimed or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by claimant.

The medical evidence required to establish causal relationship, generally, is rationalized medical opinion evidence. 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, 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>4</sup>

In this case, appellant filed an occupational disease claim on June 12, 1997, alleging that he developed pain and muscle spasms in his left hip/groin area as a result of performing his duties as a mailhandler, *i.e.*, his duties included walking, bending, twisting and lifting, beginning August 20, 1996 and continuing. The Office of Workers' Compensation Programs denied appellant's claim on October 1, 1997, under OWCP No. A6-679869.<sup>5</sup> By letter dated October 17, 1997, appellant requested reconsideration of the October 1, 1997 decision. By decision dated October 31, 1997, after a merit review, the Office denied appellant's reconsideration request on the grounds that the evidence submitted was insufficient to warrant modification of the prior decision.

The medical evidence in support of appellant's claim consists of an August 21, 1996 employing establishment first aid injuries medical report; progress notes by Dr. Eric W. Graves covering the period October 24 through December 30, 1996; progress notes by Dr. Daniel M. Daly, a Board-certified surgeon, covering the period November 11 through November 20, 1996; a January 13, 1997 CA-20 by Dr. Daly; a February 3, 1997 report by Dr. Reuben C. Richardson; a February 7, 1997 report by Dr. Richardson; a June 10, 1997 report by Dr. Rachelle B. Janush, an osteopath; a July 24, 1997 report by Dr. Janush; an August 5, 1997 report by Dr. Janush; and a September 9, 1997 report by Dr. Janush.

The August 21, 1996 first aid injuries medical report described an August 19, 1996 incident of picking up mail off a truck and feeling sharp pain in the back and left leg and thigh, diagnosed left adductor muscle strain/spasms, and returned appellant to regular duty with restrictions of "no lifting." This is a claim for an occupational disease which extends over more than one day or work shift. The report only discusses a specific incident on a particular day, which describes a traumatic injury. It is insufficient to establish this occupational disease claim as it does not explain how performing the employment factors identified by appellant over a period of time caused or contributed to his diagnosed condition.

In progress notes covering the period October 24 through December 30, 1996, Dr. Graves stated that appellant had an injury on the job lifting mail in August 1996. Dr. Graves referred

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<sup>4</sup> *Id.*

<sup>5</sup> The Board notes that appellant's claim for an August 19, 1996 traumatic injury was assigned OWCP No. A06-0660263. The claim is not part of this appeal.

appellant for physical therapy and later to a neurologist. The progress notes failed to provide a diagnosed condition to the factors of employment identified by appellant to have caused or contributed to his claimed condition. The progress notes are insufficient to establish appellant's occupational disease claim. In progress notes covering the period November 11 through November 20, 1996, Dr. Graves stated on November 11, 1996 that appellant was seen for complaints of left groin pain. He stated that "around the middle of August [appellant] was lifting a heavy bag of mail and turned." Dr. Graves went on to say that appellant had a sudden onset of stabbing, sudden pain in his back and left groin, and that appellant had been evaluated numerous times for muscle strain. He diagnosed, "groin pain. I do n[o]t know if this is persistent groin strain that has just not improved [versus] a small hernia that is clinically undetectable." On November 20, 1996 Dr. Graves noted that appellant continued to have pain, diagnosed left inguinal hernia and recommended an operation.

In a January 13, 1997 attending physician's report, Form CA-20, Dr. Daly gave a history of an August 1996 incident of lifting bag of mail, diagnosed inguinal hernia and checked "yes" that he believed the diagnosed condition was caused or aggravated by the employment activity. Dr. Daly failed to identify the factors of employment identified by appellant to have caused or aggravated his condition. Moreover, he did not address how engaging in his employment duties over a period of time either contributed or caused appellant's diagnosed condition. Therefore, Dr. Daly's attending physician's report is insufficient to establish appellant's claim. Likewise, in a January 23, 1997 attending physician's report, Form CA-20, Dr. Daly failed to address how engaging in the factors of employment identified by appellant over a period of time, caused or contributed to appellant's diagnosed condition.

In February 3, 1997 progress notes, Dr. Richardson stated that appellant was referred by Dr. Graves. Dr. Richardson stated that "[Appellant] was lifting at work in October when he felt a pop and fairly intense pain in his mid lumbar region and into his pelvis. He felt pain radiate into his groin and into his leg." Dr. Richardson also stated that "[Appellant] does have hip pain." Dr. Richardson stated that:

"I am not exactly sure what happened to this gentleman. The ilioinguinal as well as possibly the femoral nerve had some sensory dysfunction. I cannot exclude some genitofemoral problem as well. I do not think that this is an L1 lesion or I suppose it could be. Based on how this all happened it sounds like he could have injured or had subacute or acute hemorrhage into the soles or pyriformis region. I have suggested that we get an MRI [magnetic resonance imaging scan] of both the LS spine and the soft tissues to further evaluate this. Once this is complete he will need to be referred to a pain management clinic, if he is not a surgical candidate, for injection and appropriate therapeutic exercise."

In a February 7, 1997 progress note, Dr. Richardson noted that he had not yet reviewed the MRI scan, however, he referred appellant for therapy and possibly injections. Neither Dr. Richardson's February 3 or 7, 1997 progress notes addressed a causal relationship between appellant's diagnosed condition and the factors of employment identified by appellant. Therefore the progress notes are insufficient to establish appellant's occupational disease claim.

In a June 10, 1997 report, Dr. Janush stated that he initially examined appellant on February 20, 1996 and diagnosed him with acute spasm of left lower extremity of the adductor muscle complex. She recommended reevaluation by a urologist to rule out any contributions, that direct or indirect hernia or its repair may be contributing to appellant's symptomology. Dr. Janush failed to address a causal relationship between appellant's diagnosed condition and the employment factors identified by appellant. Also, she did not explain how his employment duties over a period of time caused or contributed to appellant's diagnosed condition. Dr. Janush's June 10, 1997 report is insufficient to establish appellant's occupational disease claim. In a July 24, 1997 report, she saw appellant for chief complaints of pain left lower extremity and groin. Dr. Janush reported his finding on examination and described the sacral ilial joint injection (trigger point) performed on appellant. Her July 24, 1997 report did not address a causal relationship between appellant's diagnosed condition and the factors of employment to which appellant attributes his condition. Therefore, Dr. Janush's report is insufficient to establish appellant's occupational disease claim. As well as in an August 5, 1997 therapy report, Dr. Janush recommended further SI injection under fluoro and inguinal N. injection, but failed to address a causal relationship between appellant's diagnosed condition and the factors of employment identified by appellant. In a September 9, 1997 report, she diagnosed status post left inguinal hernia repair, acute spasm of the left lower extremity of the adductor muscle complex, left sacral ilia joint pain, myofascial pain and thoracolumbar junctional syndrome with referred pain to the left groin. Dr. Janush opined:

"In review of [appellant's] medical records it is my opinion that the left thoracolumbar junctional syndrome exacerbated the pain to his left groin. This musculoskeletal condition can be misleading and mistakenly interrupted as only urologic and/or testicular pain without identification of back pain.

"Flare ups of all the above conditions can be seen with the pushing/pulling and extensive walking that is required by [appellant's] job description."

Dr. Janush's September 9, 1997 report failed to address a causal relationship between appellant's diagnosed condition and the factors of employment identified by appellant. Her September 9, 1997 report is insufficient to establish appellant's occupational disease claim.

In summary, appellant has been diagnosed with various medical conditions. However, the medical evidence submitted in the instant case is insufficient to establish appellant's occupational disease claim as it does not address a causal relationship between appellant's diagnosed conditions and the identified factors of employment to which appellant attributes his conditions. By letter dated July 1, 1997, the Office advised appellant of the medical evidence needed to establish his occupational disease claim, but such evidence was not provided. The Board finds that appellant has failed to meet his burden of proof.

The decisions of the Office of Workers' Compensation Programs dated October 31 and October 1, 1997 is affirmed.

Dated, Washington, D.C.  
November 9, 1999

Michael J. Walsh  
Chairman

Willie T.C. Thomas  
Alternate Member

Michael E. Groom  
Alternate Member