

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of LAURY L. THOMAS and U.S. POSTAL SERVICE,  
POST OFFICE, Brimfield, MA

*Docket No. 98-1646; Submitted on the Record;  
Issued November 23, 1999*

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DECISION and ORDER

Before MICHAEL J. WALSH, GEORGE E. RIVERS,  
BRADLEY T. KNOTT

The issue is whether appellant has established that she has a neck condition that is causally related to her employment.

On May 15, 1996 appellant, then a 42-year-old clerk, filed a claim for neck and back pain that she attributed to lifting and carrying in her employment. By decision dated August 1, 1996, the Office of Workers' Compensation Programs found that the evidence did not show that the claimed condition was related to factors of appellant's employment. Appellant requested reconsideration on September 6, 1996, and the Office, by decision dated October 10, 1996, refused to modify its prior decision. Appellant again requested reconsideration, and the Office, by decision dated February 14, 1997, refused to modify its prior decisions. Appellant requested reconsideration, and the Office, by decision dated June 19, 1997, found that the request was insufficient to warrant review of its prior decisions. Appellant again requested reconsideration, and the Office, by decision dated March 6, 1998, refused to modify its prior decisions.

The Board finds that further development of the evidence is necessary.

Dr. Ronald N. Paasch, a Board-certified physiatrist, submitted several medical reports that lend support to appellant's claim. In a report dated August 20, 1996, Dr. Paasch stated that he had been following appellant "for chronic neck pain and upper quadrant symptoms secondary to myofascial pain syndrome. It is quite probable that her myofascial symptoms are related to the repetitive nature of her work duties. She has multiple trigger points and upper quadrant complaints which are consistent with overuse and myofascial pain." In a report dated November 5, 1996, Dr. Paasch set forth a history that appellant had been "lifting heavy mail sacks which began causing her to have progressive pain in her neck and upper extremities which became quite severe in May." Dr. Paasch stated, "Given her presentation, her symptoms are most consistent with an underlying disorder of herniated disc and degenerative changes in the

cervical spine<sup>1</sup> which became symptomatic and was aggravated by her work duties.” After stating that appellant could no longer perform the heavy lifting required in her job, Dr. Paasch stated, “It is unlikely that the multiple cervical disc were caused by the lifting incident which she describes, however, it is quite probable that the musculoligamentous injuries suffered from the work-related injury caused her cervical symptoms to become symptomatic. I, therefore, feel that her current symptoms are causally related to work.” In a report dated September 10, 1997, Dr. Paasch stated, “Based on her history and symptomatology during her treatment period, it is most probable that her symptomatology is a result of the repetitive work duties which she was performing at work. The repetitiveness as well as the overhead activities most likely contributed to her musculoskeletal complaints. The heavy lifting most likely contributed to the several disc herniations.” Dr. Gary P. Jacobson, an osteopath, stated in an August 22, 1997 report that appellant’s “disabling condition probably was caused by her recurrent lifting at work,” which the doctor described as lifting 60-pound sacks for three or four hours daily.

Dr. Paasch has consistently supported the proposition that appellant’s symptom of neck and upper back pain was aggravated by her employment. Employment-related worsening of symptoms can result in entitlement to compensation, if the symptoms are the cause of disability or necessity for medical treatment.<sup>2</sup> The reports of Dr. Paasch are not sufficient to meet appellant’s burden of proof<sup>3</sup> because they are based on a nonspecific history of lifting and repetitive work activities and because they do not clearly indicate what condition was aggravated by appellant’s employment. However, given the absence of any medical evidence that appellant’s condition is not causally related to her employment, these reports and the report of Dr. Jacobson are sufficient to require that the Office further develop the evidence.<sup>4</sup> The Office should prepare a statement of accepted facts describing the physical requirements of appellant’s position of clerk and refer it to either Dr. Paasch or to a second opinion specialist for a reasoned medical opinion on the condition, if any, that was caused or aggravated by appellant’s employment and the period of disability related to this condition.<sup>5</sup> The Office should then issue an appropriate decision on appellant’s claim.

The decision of the Office of Workers’ Compensation Programs dated March 6, 1998 is set aside and the case remanded to the Office for further action consistent with this decision of the Board.

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<sup>1</sup> A magnetic resonance imaging (MRI) scan of appellant’s cervical spine on July 31, 1996 was interpreted as showing degenerative disc disease with small central disc herniations without nerve root involvement.

<sup>2</sup> *Thomas N. Martinez*, 41 ECAB 1006 (1990) (The Board found that appellant was entitled to compensation for an employment-related aggravation of heel pain.)

<sup>3</sup> Appellant has the burden of establishing by the weight of the reliable, probative and substantial evidence that his condition was caused or adversely affected by his employment. As part of this burden he must present rationalized medical opinion evidence, based on a complete factual and medical background, showing causal relation. The mere fact that a disease manifests itself during a period of employment does not raise an inference that there is a causal relationship between the two. *Froilan Negron Marrero*, 33 ECAB 796 (1982).

<sup>4</sup> *John J. Carlone*, 41 ECAB 354 (1989).

<sup>5</sup> Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.5 (June 1995).

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

Michael J. Walsh  
Chairman

George E. Rivers  
Member

Bradley T. Knott  
Alternate Member