

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of DR. BETTIE L. COX and DEPARTMENT OF JUSTICE, FEDERAL
BUREAU OF PRISONS, METROPOLITAN DETENTION CENTER,
Los Angeles, CA

*Docket No. 98-880; Oral Argument Held July 15, 1999;
Issued October 25, 1999*

Appearances: *Dr. Michael Teitelbaum, Esq.*, for appellant; *Corneilus Donahue, Esq.*,
for the Director, Office of Workers' Compensation Programs.

DECISION and ORDER

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

The issue is whether appellant has met her burden of proof to establish that her condition of multiple sclerosis was caused or aggravated by factors of her federal employment.

On March 17, 1997 appellant, then a 47-year-old physician, filed a claim for an occupational disease (Form CA-2) alleging that she became aware of her condition of multiple sclerosis on February 15, 1995 and that she realized her condition was caused or aggravated by her employment on February 16, 1995. Appellant stopped work on May 12, 1995.¹

By letter dated September 27, 1997, the Office of Workers' Compensation Programs advised appellant to submit factual and medical evidence supportive of her claim.

By decision dated November 4, 1997, the Office found the evidence of record insufficient to establish fact of injury. In an April 13, 1998 letter, appellant requested reconsideration of the Office's decision. Appellant's request was accompanied by a February 1, 1996 hospital report of Dr. Colin W. Stokol, a Board-certified psychiatrist and neurologist, revealing appellant's complaints, a history of appellant's medical treatment, and his findings on physical and neurological examination. Dr. Stokol stated that appellant was seen due to slowly worsening dystaxia, unsteadiness, dysarthria and nystagmus which had apparently been developing over a period of months or longer. He further stated that appellant's belief that her conditions were due to a cervical origin required further investigation regarding the possibility of myelopathy. Dr. Stokol, however, stated that these features suggested a central, intracranial cause that

¹ The record reveals that appellant was hired by the employing establishment on February 21, 1995 and that she resigned on May 21, 1995.

required further medical evaluation. He concluded that appellant required physical and occupational therapy assistance due to her gait disorder. Dr. Stokol also concluded that the relationship, if any, to appellant's chronic psoriatic condition was uncertain.

Appellant's request for reconsideration was also accompanied by Dr. Stokol's February 6, 1996 hospital discharge summary report indicating his findings on objective examination and a history of appellant's medical treatment. Dr. Stokol's report also revealed discharge diagnoses of progressive gait ataxia, weakness, dysarthria and nystagmus due to probable demyelination, probable demyelination and chronic psoriasis and psoriatic arthropathy.

By decision dated April 28, 1998, the Office reviewed appellant's claim on the merits and modified its prior decision to reflect its denial of appellant's claim on the grounds that she failed to establish that the claimed condition was causally related to accepted compensable employment factors. Accordingly, the Office denied appellant's request for modification.

The Board finds that appellant has failed to meet her burden of proof to establish that her condition of multiple sclerosis was caused or aggravated by factors of her 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.² The medical evidence required to establish a 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,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, appellant has failed to submit rationalized medical evidence establishing that her current condition of multiple sclerosis was caused or aggravated by factors of her federal employment.⁶ Specifically, in support of her claim, appellant submitted Dr. Stokol's February 1

² See *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

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).

⁶ On appeal, appellant has submitted additional evidence. However, the Board cannot consider evidence that was

and 6, 1996 medical reports revealing several diagnoses. These reports, however, failed to indicate a diagnosis of multiple sclerosis and to address a causal relationship between appellant's diagnosed conditions and factors of her federal employment.

Inasmuch as appellant has failed to submit medical evidence establishing that she sustained an injury causally related to factors of her federal employment, the Board finds that she has failed to satisfy her burden of proof.

The April 28, 1998 and November 4, 1997 decisions of the Office of Workers' Compensation Programs are hereby affirmed.

Dated, Washington, D.C.
October 25, 1999

Michael J. Walsh
Chairman

George E. Rivers
Member

Bradley T. Knott
Alternate Member

not before the Office at the time of the final decision; *see* 20 C.F.R. § 501.2(c)(1).