U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JEROME A. HALLER and U.S. POSTAL SERVICE,
POST OFFICE, Merrifield, VA

Docket No. 97-2879; Submitted on the Record;
Issued September 28, 1999

DECISION and ORDER

Before GEORGE E. RIVERS, MICHAEL E. GROOM,
BRADLEY T. KNOTT

The issue is whether appellant's claimed medical condition or disability is causally related to factors of his federal employment.

On December 10, 1996 appellant, then a 35-year-old mail processor, filed a notice of occupational disease and claim for compensation, Form CA-2, alleging that his condition of degenerated arthritis in the knees and back was employment related. He states that he worked 8 hours a day for 6 years lifting 10 to 60 pounds, pushing and pulling 300 to 900 pounds causing wear and tear on his back and knees. He also indicates that he first became aware of his disease or illness, and first realized that his disease or illness was caused or aggravated by his federal employment on November 20, 1992. Appellant went on to note that he has been seeing a physician for his condition since May 1991; that his doctor has been filling out various duty status reports, Form CA-17, which placed him on a limited-duty status from May 1991 until the time he filed this claim on December 10, 1996. Appellant goes on to assert that the delay in filing his claim was due to management's failure to fill out and file the correct form.

The employing establishment has challenged the validity of appellant's claim for benefits. The employing establishment notes that appellant first sought medical treatment for his condition on October 4, 1991; that appellant first reported his condition to his supervisor on December 8, 1996; that appellant has been working under restrictions in the automation area since March 1991; and according to appellant he has been submitting various duty status reports, Form CA-17, gradually since 1991. In a letter dated December 17, 1996, the employing establishment initially stated that appellant had previously filed a claim for the same injury on September 4, 1991 which was denied on July 31, 1995.[1] The employing establishment stated

[1] The employing establishment notes that appellant claimed an on-the-job injury on November 20, 1992, which was denied under claim number, A25-0402005, on September 4, 1991. This claim is not before the Board and will not be addressed.

that "[appellant] have made several attempts to receive limited duty on his denied claim. [Appellant] had been working light duty since the denial of his claim on July 31, 1992."[2]

Appellant has submitted two duty status reports, Form CA-17, from Dr. Henry R. Herbert, Board-certified in internal medicine, dated October 4, 1991 and November 3, 1992.

In his October 4, 1991 duty status report, Dr. Herbert diagnosed synovitis in both knees and described how the injury occurred and the affected body parts as "pain in knees to thighs [from] standing and walking around machine [eight] hours a day." Dr. Herbert also checked a "yes" box indicating that the history of appellant's injury corresponded with how the injury occurred and the affected body part. He then restricted appellant's job duties to not standing on unpadded concrete floor for more than one hour a day and noted that appellant was placed on partial disability from September 16 to October 18, 1991.

In his November 3, 1992 duty status report, Dr. Herbert noted that his clinical finding was pain on range of motion from crepitation back, knees and neck. He diagnosed appellant with "pain in both knees and neck from longstanding and noted that appellant also had a degenerated joint disease of cervical spur. Dr. Herbert described how the injury occurred and the affected body parts as: "bilateral knee pain," and restricted appellant's job duties to a sit down job in which appellant should not stand and work for more than two hours per day. He also noted that appellant was placed on partial disability.

By letter dated January 8, 1997, the Office of Workers' Compensation Programs advised appellant of the type of factual and medical evidence needed in order to establish his claim for benefits. In particular, the Office advised appellant to have his physician to provide a comprehensive medical report describing appellant's symptoms; results of examination and tests; a firm diagnosis; treatment provided; a physician's medical reasons on the cause and effect of appellant's condition; and if appellant's physician feels that exposure or incidents in your federal employment contributed to the diagnosed condition, an explanation of how such exposure contributed should be provided. Appellant was allotted 30 days within which to submit the requested information.

Appellant did not respond to the Office's January 8, 1997 letter or submit evidence to support his claim.

In a decision dated February 11, 1997, the Office denied appellant's claim for benefits on the grounds that the evidence of record failed to establish that the claimed condition or disability is causally related to appellant's accepted activities or employment factors. In an accompanying memorandum, the Office noted that appellant was advised of the deficiency in his claim on

[2] In an undated statement, the employing establishment explained that "[appellant] is currently submitting a [Form] CA-2 for a condition he states he has had since August of 1991. I have enclosed earliest [Form] CA-17, I locate[d] October 1991 (enclosed) stating knee problems. I have been [appellant's] SDO for the past nine months and he has worked in a light-duty status of two [to] four hours on the DBLS. Feeding only or verifying the mail. [Appellant] has worked in a light-duty status since an accident he reported in March of 1991 until the present time. In April of 1992 [appellant's] claim due to the accident in March of 1991 was denied by the Dep[artmen]t of Labor (enclosed). [Appellant] has been filing [F]orms CA-1 to change on-the-job injury to remain in a limited-duty status as opposed to light-duty status. He states he has an occupational disease and just found out CA-2 is the form he should have been filing."

January 8, 1997 and afforded an opportunity to provide supportive evidence; however, no medical evidence of any kind was submitted to support the fact that appellant's claimed condition or disability is causally related to the accepted activities and employment factors.

By letter dated February 17, 1997, appellant requested reconsideration of the Office's February 11, 1997 decision and submitted additional medical evidence. This evidence consisted of a March 21, 1991, medical report from Dr. Caroline P. Manlapaz, specializing in internal medicine and a January 24, 1997 medical report from Dr. Herbert.

In the March 21, 1991 report, Dr. Manlapaz diagnosed appellant with a strained right groin and described the history of injury as pain in appellant's lower right abdominal after lifting all purpose container shelf. He also indicated that appellant was to do no lifting, carrying, pulling or pushing over five pounds and no prolonged walking or standing. In the January 24, 1997 report, Dr. Herbert noted that appellant was first evaluated on April 4, 1990 for pain in his right shoulder and neck and was treated conservatively. Dr. Herbert stated:

> "History of present illness: On physical examination by me on [September 17, 1991], he began to complain of pain in his left leg since [September 4, 1991]. On turning to the right, caused pain in his leg and he was on limited duty from [September 16, 1991] in a sit-down job. He believed that he hurt his legs on the job. While in the military, he fell out of bed in 1989 and hurt his back and was on 10 [percent] disability. The impression was pain in his knees and he was asked to perform stretching exercises and to use nonsteroidal anti-inflammatory agents.
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> "[Appellant] was seen in orthopedic consultation on [March 17, 1992] by Dr. Jackson who felt that he had bilateral knee pain when he pushes heavy objects. Range of motion was normal. There was no tenderness. The ligaments were stable. There was no effusion. He was to be treated with Naprosyn and encouraged to do exercises.
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> "On [April 27, 1992] he was evaluated for degenerative joint disease of C4-5. He stated that he had pain in his neck since the beginning of April and pain in his shoulders. He was treated conservatively with nonsteroidal anti-inflammatory agents.
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> "It is of interest that on [April 14, 1992], a cervical spine showed degenerative changes at the level of C5-6 and to a lesser extent on C4-5.
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> "On [June 13, 1993] [appellant] had an MRI [magnetic resonance imaging] scan of his lumbosacral spine which showed that the vertebral column was intact. There was no significant disk narrowing, no focus of abnormal signal was seen, and it was felt to be a normal study.
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> "On [May 13, 1992] [appellant] had an EMG [electromyogram] of his neck which showed no evidence of entrapment neuropathy."

* * *

"Physical examination [October 28, 1993]: Confirmed a history of lower back pain and pain in his [appellant's] knees. Range of motion of the knees was essentially within normal limits."

* * *

"On [December 4, 1995], x-ray of both knees was considered to be normal."

* * *

"Impression: Degenerative joint disease by history of the neck, lumbosacral spine and knees. Although the x-ray evidence is lacking, his symptomatology would indicate that prolonged standing or pushing or pulling excessive amounts of weight contributes to his pain and swelling syndrome of his knees. At the present time, his neck is asymptomatic. It is therefore felt that his restriction is permanent and should be continued.

"[Appellant] states that he was evaluated by a post office physician, who agreed with the restriction and suggested a referral to an orthopedic surgeon, which according to the patient, has not occurred.

"[Appellant's] symptoms are pain in both knees and standing or walking and intermittent low back pain if he stands for long periods of time which is nonradiating. His activities to rehabilitate himself include walking a mile per day."

In a merit decision on reconsideration dated February 25, 1997, the Office denied appellant's application for review on the grounds that evidence submitted in support of his request for reconsideration was not sufficient to warrant modification of the prior decision. The Office found that the reports submitted by Dr. Manlapaz pertained to a right groin strain and was not relevant to the main issue in the instant case, *i.e.*, the causal relationship between appellant's knees and back condition to the work factors. The Office also found that the medical report from "Dr. Herbert has failed to provided a reasoned opinion concerning the causal relationship of the degenerative condition (the only definitive diagnosis) and factors of employment."[3]

The Board finds that appellant has not met his burden of proof in establishing that his claimed medical condition or disability is causally related to factors of his federal employment.

An employee seeking benefits under the Federal Employees' Compensation Act[4] has the burden of establishing the essential elements of his or her claim, including the fact that an injury

[3] Following the Office's February 25, 1997 decision on reconsideration, appellant submitted additional evidence not previously considered by the Office. The Board's jurisdiction, however, is limited to reviewing the evidence that was before the Office at the time of its final decision. The Board therefore has no jurisdiction to review any evidence submitted to the record after the Office's February 25, 1997 decision. 20 C.F.R. § 501.2(c). This decision does not preclude appellant from having such evidence considered by the Office as part of a reconsideration request.

[4] 5 U.S.C. §§ 8101-8193.

was sustained in the performance of duty as alleged, and that any disability and/or specific condition for which compensation is claimed is causally related to the employment injury.[5]

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 the 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.[6] The medical evidence required to establish a causal relationship, generally, is rationalized medical opinion evidence.[7] 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,[8] must be one of reasonable medical certainty,[9] 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.[10]

In the present case, there is insufficient rationalized medical opinion evidence to support the fact that appellant suffered an injury or disability casually related to any factors of his federal employment. None of the medical reports submitted by Dr. Herbert have provided a reasoned medical opinion, supported by objective finding as to the medical connection between appellant's diagnosed condition of degenerative arthritis in both knees and back and factors of appellant's federal employment. For example, they did not describe appellant's specific work duties in any detail or provide medical reasoning explaining how or why the prolonged standing on unpadded floors for long periods of time, the pushing or pulling, caused or aggravated a specific medical condition.[11] Without any explanation or rationale for the conclusion reached, such reports are insufficient to establish causal relationship.[12] The reports of Dr. Herbert failed

[5] *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

[6] *Jerry D. Osterman*, 46 ECAB 500 (1995); *see also Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

[7] The Board has held that in certain cases, where the causal connection is so obvious, expert medical testimony may be dispensed with to establish a claim; *see Naomi A. Lilly*, 10 ECAB 560, 572-73 (1959). The instant case, however, is not a case of obvious causal connection.

[8] *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

[9] *See Morris Scanlon*, 11 ECAB 384-85 (1960).

[10] *See William E. Enright*, 31 ECAB 426, 430 (1980).

[11] *Charles H. Tomaszewski*, 39 ECAB 461 (1988) (finding that medical evidence which does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship); *see also George Randolph Taylor*, 6 ECAB 986 (1954) (where the Board found that a medical opinion not fortified by medical rationale is of little probative value).

[12] *Lucrecial M. Nielson*, 41 ECAB 583 (1991).

to provide a comprehensive and rationale medical opinion explaining the causal relationship between appellant's diagnosed condition of degenerative arthritis in both knees and back and any workplace factor. Therefore, they are of no probative value and insufficient to meet appellant's burden of proof.

An award of compensation may not be based on surmise, conjecture or speculation, or appellant's belief of causal relationship. The mere fact that a disease or condition manifests itself or worsens during a period of employment or that work activities produce symptoms revelatory of an underlying condition[13] does not raise an inference of causal relationship between the condition and the employment factors. Neither the fact that appellant's condition became apparent during a period of employment nor the belief that his condition was caused, precipitated or aggravated by his employment is sufficient to establish causal relationship. Causal relationship must be established by rationalized medical opinion evidence and appellant has failed to submit such evidence in the present case.[14] As appellant has not submitted rationalized medical evidence explaining how and why the diagnosed condition was caused or aggravated by his federal employment, the Office properly denied appellant's claim for compensation.

The decisions of the Office of Workers' Compensation Programs dated February 25 and February 11, 1997 are affirmed.

Dated, Washington, D.C.
September 28, 1999

George E. Rivers
Member

Michael E. Groom
Alternate Member

Bradley T. Knott
Alternate Member

[13] *Richard B. Cissel*, 32 ECAB 1910, 1917 (1981).

[14] *Victor J. Woodhams*, *supra* note 6.