

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of RALPH M. CHEFFIN and DEPARTMENT OF VETERANS AFFAIRS,  
MEDICAL CENTER, Brecksville, OH

*Docket No. 98-581; Submitted on the Record;  
Issued September 13, 1999*

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DECISION and ORDER

Before MICHAEL J. WALSH, GEORGE E. RIVERS,  
A. PETER KANJORSKI

The issue is whether appellant has met his burden of proof in establishing that he sustained an injury in the performance of duty, as alleged.

On August 16, 1997 appellant, then a 51-year-old recreation therapist, filed a notice of occupational disease and claim for compensation (Form CA-2) alleging that the degenerative arthritis in his lower back was caused or aggravated by his federal employment.<sup>1</sup> Appellant indicated that he first knew that he had degenerative arthritis on October 5, 1970, but did not realize until March 28, 1995 that it was caused or aggravated by his federal employment. The employing establishment has controverted this claim.

In a September 30, 1997 letter, the Office informed appellant that the evidence submitted was insufficient to establish his claim, advised him of the type of factual and medical evidence needed to establish his claim and requested that he submit such evidence. The Office particularly requested that appellant submit a physician's reasoned opinion addressing the relationship of his claimed condition and specific employment factors. Appellant was allotted 30 days within which to submit the requested evidence.

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<sup>1</sup> The Board notes that this claim, which had been assigned file number 09-0432295 was merged with appellant's prior claims under a master file number 09-0431433. The Office of Workers' Compensation Programs had previously accepted claims appellant filed for lumbosacral strain which occurred on March 28, 1995 and August 6, 1997. Prior to merging all three claims, the Office assigned the file number 09-0416325 to the March 28, 1995 claim and file number 09-0431433 to the August 6, 1997 claim. All the evidence from the three files was combined under the master file number 09-0431433.

Appellant did not submit evidence to support his claim in response to the Office's September 30, 1997 letter.<sup>2</sup>

The employing establishment responded in a letter dated October 7, 1997 and submitted an article on degenerative joint disease, a copy of appellant's position description, an employee health record dated May 7, 1997 and a September 17, 1996 x-ray interpretation.

By decision dated November 17, 1997, the Office denied appellant's claim for compensation benefits on the grounds that the evidence of record failed to support the fact of an injury in this case. In an accompanying memorandum, the Office noted that appellant was advised of the deficiency in his claim on September 30, 1997 and afforded an opportunity to provide supportive evidence; however, no medical evidence of any kind was submitted to support the fact that appellant sustained an injury in the performance of duty.

The Board finds that appellant has not met his burden of proof in establishing that he sustained an injury in the performance of duty, as alleged.

An employee seeking benefits under the Federal Employees' Compensation Act<sup>3</sup> has the burden of establishing the essential elements of his or her claim, including the fact 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>4</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 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.<sup>5</sup> 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,<sup>6</sup> must be one of reasonable medical certainty<sup>7</sup> and must be supported by medical

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<sup>2</sup> The record contains a report of a telephone call on October 3, 1997 from appellant in which he detailed claims filed in 1971 and 1984 which had been denied through the employing establishment. Appellant also indicated that he did not remember filing a CA-2, he was not going to pursue the claim and only wanted his medical bills paid. The Office advised appellant that his medical bills would only be paid if his claim was accepted.

<sup>3</sup> 5 U.S.C. §§ 8101-8193.

<sup>4</sup> *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

<sup>5</sup> *Jerry D. Osterman*, 46 ECAB 500 (1995); *see also Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

<sup>6</sup> *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

<sup>7</sup> *See Morris Scanlon*, 11 ECAB 384-85 (1960).

rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.<sup>8</sup>

In the present case, it is not disputed that appellant has degenerative arthritis in his lower back, but the Office found that the evidence of record failed to support the fact of an injury since no medical evidence of any kind was submitted to support appellant's claim that his degenerative arthritis in his lower back was caused or aggravated by his employment duties. As the Office noted, appellant was advised of the deficiencies in his claim on September 30, 1997 and afforded the opportunity to provide supportive evidence; however, no medical evidence addressing whether any medical condition arose out of any specific employment factors, has been submitted.

An award of compensation may not be based on surmise, conjecture or speculation. The mere fact that a disease or condition manifests itself or worsens during a period of employment<sup>9</sup> or that work activities produce symptoms revelatory of an underlying condition<sup>10</sup> does not raise an inference of causal relationship between the condition and the employment factor. 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 federal employment is sufficient to establish causal relationship. Causal relationship must be established by rationalized medical opinion evidence.<sup>11</sup> Thus, as appellant failed to provide rationalized medical evidence establishing that his degenerative arthritis was caused or aggravated as a result of his federal employment, the Office properly denied appellant's claim for compensation.

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<sup>8</sup> See *William E. Enright*, 31 ECAB 426, 430 (1980).

<sup>9</sup> *William Nimitz, Jr.*, *supra* note 6.

<sup>10</sup> *Richard B. Cissel*, 32 ECAB 1910, 1917 (1981).

<sup>11</sup> *Victor J. Woodhams*, *supra* note 5.

The decision of the Office of Workers' Compensation Programs dated November 17, 1997 is affirmed.

Dated, Washington, D.C.  
September 13, 1999

Michael J. Walsh  
Chairman

George E. Rivers  
Member

A. Peter Kanjorski  
Alternate Member