

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ROBERT L. NELSON and DEPARTMENT OF VETERANS AFFAIRS,
VETERANS ADMINISTRATION MEDICAL CENTER, Durham, NC

*Docket No. 99-864; Submitted on the Record;
Issued August 11, 2000*

DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS,
A. PETER KANJORSKI

The issue is whether appellant sustained a left shoulder condition causally related to his federal employment.

On October 19, 1995 appellant, then a 46-year-old food service worker, filed a notice of traumatic injury and claim for compensation, Form CA-1, alleging that on September 7, 1995 he sustained a groin strain in the performance of duty. He also submitted a statement describing how he had been in the freezer stocking meat when he slipped on the wet floor. Appellant stopped work on October 19, 1995 and has not returned.

Appellant first sought medical care on September 18, 1995. Dr. Robert Lineberger, a Board-certified internist, diagnosed groin pull and indicated that appellant could return to modified work. In a September 28, 1995 treatment note, Dr. Lineberger diagnosed groin strain and also diagnosed left shoulder pain. He recommended physical therapy for appellant's shoulder condition. Dr. Lineberger repeated his diagnoses in a treatment note dated October 18, 1995.

On October 30, 1995 the employing establishment controverted the claim. By letter dated November 30, 1995, the Office requested additional medical and factual evidence from appellant. In a February 15, 1996 memorandum of a telephone conversation between the Office and the employing establishment, it was noted that, although appellant had filed a claim for a groin injury, appellant was now claiming a shoulder injury stemming from the September 7, 1995 work incident.

By decision dated February 23, 1996, the Office accepted appellant's claim for groin strain in the performance of duty. The Office, however, found no evidence that appellant's shoulder condition was causally related to the September 7, 1995 work injury.

On March 19, 1996 appellant requested a hearing before an Office hearing representative. In support, he submitted medical treatment notes from Dr. Lineberger. In a September 28, 1995 office note, Dr. Lineberger reported that appellant had left shoulder pain for approximately three weeks with no obvious precipitation. Findings on examination revealed abduction to approximately 90 degrees active, approximately 135 degrees passive, rotator cuff positive for pain abduction/extension rotation. In a March 1996 treatment note, Dr. Lineberger, reported appellant's history of the injury as slip and fall in the freezer, pulled groin and shoulder. Appellant also provided physical therapy notes. In a November 18, 1995 note, the physical therapist reported that he injured his left shoulder at work but that he was not quite sure how he did it. The physical therapist further reported that the injury occurred approximately on October 18, 1995. In a treatment note dated April 22, 1996, Dr. Lineberger reported that "[appellant] states he injured his left shoulder on the job last fall. His symptoms and examination are consistent with that."

Appellant also submitted medical reports from Dr. Richard Bruch, an orthopedic surgeon, some of which predate the September 7, 1995 injury. In an April 30, 1996 report, relevant to the instant claim, Dr. Bruch diagnosed acromioclavicular joint strain and arthritis, rotator cuff tendinitis with impingement syndrome. In office notes of that same date, Dr. Bruch noted:

"[Appellant] relates this [shoulder injury] to an on-the-job injury October 20, 1995 or thereabouts. [Appellant] states that he was at work ... and he was placing a container in the freezer when he slipped pulling his right groin and also having onset of shoulder pain."

In a February 10, 1997 report, Dr. Lineberger explained that he first saw appellant for left shoulder pain on September 28, 1995.

"At that time he denied any known injury as the cause. On subsequent visits he related the injury detailed in your letter and on April 22, 1996, he asked me for a statement that the alleged accident and his shoulder problem were related. My work note for him at the time states that I felt his symptoms and physical examination were consistent with the described accident. I still believe the accident probably caused the left shoulder injury. I believe the described accident could have caused a strain injury of his rotation cuff muscles in the left shoulder.... The force of the falling box ... could have caused overloading of the rotation cuff tendons, especially those responsible for abducting the arm. This injury could lead to inflammation, pain and disability.... [T]his mechanism of injury could cause many months or more of pain and limitation of use of the left shoulder. My last contact with him was April 22, 1996 at which time he was still having considerable pain in his left shoulder."

Appellant also provided a March 6, 1997 affidavit from Robert Thorpe, his supervisor, who testified that appellant reported to him sometime in September 1995 that appellant had hurt his groin and left shoulder after falling in the freezer. Mr. Thorpe reported that he wrote an incident report.

On March 12, 1997 an Office hearing representative held a hearing at which appellant had an opportunity to testify. Appellant described the September 7, 1995 work incident in detail. He testified that he did not feel shoulder pain immediately since he was taking pain medication for the groin strain.

By decision dated May 9, 1997, the Office hearing representative found that appellant failed to establish that his left shoulder condition was causally related to the September 7, 1995 injury. The Office hearing representative discounted Dr. Lineberger's reports regarding causal relationship because they were too speculative. Consequently, the Office hearing representative denied the claim.

The Board finds that appellant has failed to meet his burden of proof to establish that he sustained a shoulder condition causally related to his employment.

Causal relationship is a medical issue,¹ and the medical evidence required to establish causal relationship is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized medical opinion on 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,² 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.³

In the instant case, only Dr. Lineberger addresses the causal relationship between appellant's September 7, 1995 injury and his shoulder condition. His opinion, however, is of limited probative value on the issue of causal relationship because it is speculative in nature.⁴ In his February 10, 1997 report, Dr. Lineberger opined that the accident "probably" caused the left shoulder injury. Dr. Lineberger further adds that he believes that the described accident "could have" caused a strain injury of appellant's rotation cuff muscles in the left shoulder. He has failed to explain, with sufficient medical rationale, how appellant's federal employment caused or contributed to his condition. Without a well-reasoned medical narrative explaining how the specific requirements of appellant's federal employment caused or contributed to a firmly diagnosed medical condition, appellant has not met his burden of proof on this issue.⁵ Consequently, appellant failed to establish that his left shoulder condition was causally related to the September 7, 1995 employment injury.

¹ *Mary A. Howard*, 45 ECAB 646 (1994); *Cynthia M. Judd*, 42 ECAB 246 (1990); *Terry R. Hedman*, 38 ECAB 222 (1986).

² *See Morris Scanlon*, 11 ECAB 394, 385 (1960).

³ *Gary L. Fowler*, 45 ECAB 365 (1994); *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁴ *See Mary Lou Barragy*, 46 ECAB 781 (1995); *Jennifer Beville*, 33 ECAB 1970, 1973 (1982); *Leonard J. O'Keefe*, 14 ECAB 42, 48 (1962) (finding that an opinion which is speculative in nature has a limited probative value in determining the issue of causal relationship).

⁵ *O. Paul Gregg*, 46 ECAB 624 (1995).

The decision of the Office of Workers' Compensation Programs dated May 9, 1997 is hereby affirmed.

Dated, Washington, D.C.
August 11, 2000

Michael J. Walsh
Chairman

Willie T.C. Thomas
Member

A. Peter Kanjorski
Alternate Member