

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of NORMA F. PAREDES and DEPARTMENT OF THE NAVY
MILITARY SEALIFT COMMAND PACIFIC, Oakland, CA

*Docket No. 99-1406; Submitted on the Record;
Issued August 4, 2000*

DECISION and ORDER

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

The issue is whether appellant has established that her left knee condition is causally related to her April 17, 1995 employment injury.

On April 17, 1995 appellant, then a 50-year-old budget clerk, filed a notice of traumatic injury and claim for continuation of pay/compensation (Form CA-2) stating that on that date, she walked into the snack bar and slid and fell on her posterior and back due to spilled soup being on the floor.¹ She did not indicate that she had a specific injury at that time. Appellant did not stop work.

On November 12, 1997 appellant filed a notice of recurrence of disability (Form CA-2a) alleging that "after medical treatment, I was given crutches, to support my legs and ankle, and never got better ever since I fell again from our snack bar of the same building where I work."² She did not specify which date of injury she was referring to in the form.

Accompanying the recurrence of disability claim were various medical records and employing establishment treatment notes dating from 1990 noting appellant's treatment for left ankle and knee conditions.

On February 4, 1998 the Office sent a letter to appellant indicating that it was unclear as to what she was claiming and requested that she supply additional documentation.

In a letter dated March 7, 1998, appellant provided the Office with additional information that included a detailed explanation of three separate injuries that included a dislocated knee on November 1, 1993; an injury to the posterior and back on April 17, 1995; and a hairline fracture to the right ankle on May 29, 1996. She also provided numerous medical documents that covered her left ankle, varicose veins and knee pain.

¹ The Office of Workers' Compensation Programs received the claim on January 20, 1998.

² Appellant did not specify the date of the injury but it can be inferred from her reference to the snack bar that she was referring to the April 17, 1995 injury.

By decision dated March 24, 1998, the Office rejected appellant's claim on the grounds that she did not establish that she sustained an injury due to the claimed incident as required by the Federal Employees Compensation Act.

On August 11, 1998 appellant faxed a medical note from Dr. William McGann, a Board-certified orthopedic surgeon, who attempted to clarify the issues of causal relationship and possible apportionment for her injuries. The Office treated this as a reconsideration request.

Dr. McGann stated that appellant had fallen twice and hurt her knee and ankle in 1990. He also stated that she had tripped over a carpet in 1995. Dr. McGann opined that appellant's symptoms were consistent with chondromalacia of the knee with traumatic chondromalacia superimposed on osteoarthritis. He also indicated that as a result of the second injury in 1995, the claimant had enough symptoms to warrant the surgery of November 24, 1997.

In an October 5, 1998 merit decision, the Office modified its prior decision finding that fact of injury had been established. However, the Office denied the claim because causal relationship was not established between the April 17, 1995 injury and the need for knee surgery on November 24, 1997.

In a letter dated November 4, 1998, Dr. McGann provided an addendum to his letter of July 31, 1998 and attempted to correct the errors he had made with respect to appellant's previous injuries. He stated that in January 1993, an accident occurred at work involving a slip and fall on a wet floor caused by a coffee spill. Dr. McGann indicated a second injury occurred with a slip and fall on a wet floor involving soup around March 17, 1995. He stated that the third injury occurred during a tripping incident on carpet in April 1996. Dr. McGann stated that the corrections were taken from the patient in a corrected fashion. His addendum did not provide an opinion with respect to causation.

Appellant again requested reconsideration on December 2, 1998.

In a December 17, 1998 merit decision, the Office denied modification of the prior decisions, as the evidence of record was insufficient to establish that appellant's reported current condition and the 1997 surgery were causally related to the April 17, 1995 accepted injury.

The Board finds that appellant has not met her burden of proof to establish that her accepted April 17, 1995 injury resulted in her current medical condition and the need for surgery on November 24, 1997.

An employee seeking benefits under the Federal Employees' Compensation Act has the burden of establishing the essential elements of his or her claim including the fact that the individual is an "employee of the United States within the meaning of the Act, that the claim was filed within the applicable time limitation of the Act, 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 is causally related to the employment injury."³ These are the essential

³ *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or occupational disease.⁴

The medical evidence required to establish a causal relationship, generally is rationalized medical evidence. Rationalized medical evidence is medical evidence which includes a physician's rationalized medical 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 upon a complete factual and medical background of the claimant, must be one of reasonable medical certainty, 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

The Office found that appellant established fact of injury for her April 17, 1995 slip and fall injury on her back and posterior for which she did not stop work. Dr. McGann's July 31, 1998 report described injuries from 1990 and 1995. The two injuries he described from 1990 referred to knee and ankle injuries and the injury from 1995 was referred to as a trip over a carpet. The April 17, 1995 injury appellant referred to in the Form CA-1 was described as an injury to the posterior and back. Appellant did not mention any other body parts when she initially fell other than the posterior and back. She did not attempt to incorporate the knee until her statement of March 7, 1998, almost three years after the injury. Dr. McGann's report was inaccurate because he did not relay an accurate knowledge of the April 17, 1995 injury. He also did not indicate that he had knowledge of the 1993 injury resulting in a dislocated knee joint or the May 29, 1996 injury involving the trip on the carpet and a hair line fracture of the right ankle. Dr. McGann's history of the April 17, 1995 injury was also inaccurate because he thought that she tripped over a carpet in 1995 when she actually slipped and fell on her posterior and back on spilled soup on the floor. The two descriptions were dramatically different.

In a November 4, 1998 addendum, Dr. McGann attempted to correct the errors he had made with respect to appellant's previous injuries. He stated that in January 1993 an accident occurred at work involving a slip and fall on a wet floor caused by a coffee spill. Dr. McGann did not mention what type of injury appellant sustained. According to appellant this injury actually occurred on November 1, 1993 and involved a dislocated knee joint. He also stated that a second injury occurred with a slip and fall on a wet floor with soup on March 17, 1995. Appellant actually stated her injury was on April 17, 1995 and involved her posterior and back on her initial Form CA-1. She later added head, twisted knee and ankle when she supplied a statement, three years later, dated March 7, 1998. Dr. McGann never mentioned what type of injury occurred on that date or the previous date. He was also incorrect when he stated that the third injury occurred in April 1996 when appellant stated it was actually on May 29, 1996. Additionally, appellant stated that she twisted her ankle and bruised her knee. She also stated at this time that she was on crutches on and off. At no time did she specify which knee or ankle. Despite Dr. McGann's statement that the corrections were taken from the patient in a corrected fashion, there remain, as noted above, factual inaccuracies in the report. Additionally, his November 4, 1998 report did not offer any opinion on the causal relationship if any between the diagnosed conditions, the 1997 surgery and the employment accepted injury of April 17, 1995.

⁴ *Daniel J. Overfield*, 42 ECAB 718, 721 (1991).

⁵ *Gary L. Fowler*, 45 ECAB 365, 371 (1994).

The Board has long held that medical opinions based on an incomplete or inaccurate factual background are entitled to little probative value in establishing claims for compensation.⁶ As the information supplied by Dr. McGann on two separate occasions was reportedly incorrect and incomplete, the opinions are insufficient to establish that appellant's current condition and the surgery she underwent on November 24, 1997 was causally related to the accepted April 17, 1995 injury.⁷ Since this was the only physician's report supplied by appellant that purportedly attempted to establish a causal relationship between her current and 1997 surgery condition and her employment with respect to the April 17, 1995 injury, she has failed to discharge her burden of proof. The Board finds that the medical evidence is of little probative value in establishing a causal relationship between appellant's current condition, surgery in 1997 and her April 17, 1995 work injury.

The decisions of the Office of Workers' Compensation Programs dated December 17 and October 5, 1998 are hereby affirmed.

Dated, Washington, D.C.
August 4, 2000

Michael J. Walsh
Chairman

Willie T.C. Thomas
Member

A. Peter Kanjorski
Alternate Member

⁶ *Clarence E. Brockman*, 40 ECAB 753 (1989); *Carl E. Hendrickson*, 35 ECAB 593 (1984); *James A. Wyrich*, 31 ECAB 1805 (1980); *John W. Pettigrew*, 6 ECAB 941 (1954).

⁷ *Rex A. Link*, 35 ECAB 253, 255 (1983).