

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of RICHARD REED and U.S. POSTAL SERVICE,  
POST OFFICE, San Diego, CA

*Docket No. 99-1804; Submitted on the Record;  
Issued August 23, 2000*

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DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,  
A. PETER KANJORSKI

The issue is whether appellant has met his burden of proof in establishing that his cervical condition was causally related to his federal employment.

Appellant, then a 51-year-old mail carrier, filed an occupational disease claim on September 9, 1998 alleging that his work duties of carrying slats and letters with his left arm and hand caused stress and strain on the muscles and tendons of his left arm and neck. He stopped work on September 3, 1998 and returned to light duty on January 30, 1999.

On November 5, 1998 the Office of Workers' Compensation Programs requested additional information from appellant regarding his claim. He submitted in response a narrative statement; a letter report from Dr. Stephen Stecker, a Board-certified neurologist, dated September 9, 1998; disability slips from the neurosurgical medical clinic; a radiology report from Dr. Kenneth Albertson, a Board-certified radiologist, of a magnetic resonance imaging (MRI) scan performed on September 11, 1998; a nerve conduction and electromyogram (EMG) report dated September 17, 1998 and letter and operative reports from Dr. Lance Altenau, a Board-certified neurologist, prior and subsequent to his surgery of the cervical region. Dr. Stecker noted in his September 9, 1998 report that appellant was a postal employee who had been having increasing pain in the cervical region and left upper extremity for two to three weeks. Upon examination, he opined that appellant had a left C6-7 cervical radiculopathy probably due to disc disease with possible superimposed neuropathy of the left upper extremity. In reports dated October 15 and 29, 1998, Dr. Altenau also noted that appellant was a postal worker and gave a history of his upper left extremity and cervical pain. He reported that the September 11, 1998 MRI scan revealed a considerable cervical stenosis and foraminal narrowing at the C5-6 level due to a bony ridge in the cervical disc, slightly eccentric to the left which had also been confirmed by x-rays. Dr. Altenau discussed a surgical procedure, namely an anterior cervical discectomy and fusion with anterior plating at the C5-6 level, which he recommended appellant undergo so that he could return to gainful employment. In a postoperative report dated December 16, 1998, Dr. Altenau opined that with regard to appellant's symptoms, findings and

surgery, it was difficult to assign a particular injury in this case. He indicated that injuries over time certainly could be causative, however, in appellant's case, no particular incident was described in appellant's initial evaluation.

By decision dated December 7, 1998, the Office denied appellant's claim on the grounds that he failed to establish fact of injury. The Office found that appellant failed to demonstrate that a medical condition existed for which he claimed compensation.

Appellant requested reconsideration of the prior decision in a letter received by the Office on December 28, 1998. By decision dated February 8, 1999, the Office modified the December 7, 1998 decision and found that fact of injury had been established but denied the claim on the grounds that causal relationship had not been established.

On appeal, appellant contends that, while his cervical stenosis may not have been directly caused by his employment, he believes that the daily rigors of carrying a 20- to 40-pound mailbag on his shoulder everyday has aggravated his condition.

The Board finds that appellant has failed to meet his burden of proof in establishing that his cervical condition was causally related to his federal employment.

An employee seeking benefits under the Federal Employees' Compensation Act<sup>1</sup> 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 are causally related to the employment injury.<sup>2</sup> These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or occupational disease.<sup>3</sup>

To establish that an injury was sustained in the performance of duty in an occupational disease claim, appellant must submit the following: (1) medical evidence establishing the 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 disease; and (3) medical evidence establishing that the employment factors were the proximate cause of the disease or, stated differently, medical evidence that the diagnosed condition is causally related to the employment factors identified by appellant.<sup>4</sup> The medical evidence required is generally rationalized medical opinion evidence which includes a physician's opinion of reasonable medical certainty based on a complete factual and medical background of the claimant and supported by medical rationale explaining the nature of the relationship between the diagnosed

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<sup>1</sup> 5 U.S.C. § 8101 *et seq.*

<sup>2</sup> *Louise F. Garnett*, 47 ECAB 639, 643 (1996); *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

<sup>3</sup> *Jerry D. Osterman*, 46 ECAB 500 (1995); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

<sup>4</sup> *Id.*

condition and the specific employment factors identified by claimant.<sup>5</sup> Neither the fact that appellant's condition became apparent during a period of employment nor appellant's belief that the condition was caused by his employment is sufficient to establish a causal relationship.<sup>6</sup>

In the present case, appellant has identified the duties of carrying slats and letters with his left arm and hand in his federal employment as contributing to his cervical stenosis; however, the medical evidence of record fails to contain a reasoned medical opinion on causal relationship. In a report dated September 9, 1997, Dr. Stecker noted that appellant was a postal employee and that his left C6-7 cervical radiculopathy was probably due to disc disease with possible superimposed neuropathy of the upper left extremity; however, he did not opine that the condition was causally related to employment factors. In reports dated October 15 and 29, 1998, Dr. Altenau noted that an MRI scan revealed a considerable cervical stenosis and foraminal narrowing at the C5-6 level due to a bony ridge in the cervical disc, slightly eccentric to the left which had also been confirmed by x-rays. He also discussed appellant's need for an anterior cervical discectomy and fusion with anterior plating at the C5-6 level, so that he could return to gainful employment. Dr. Altenau did not, however, provide any opinion on causal relationship with the identified employment factors. On the contrary, he, in a postoperative report dated December 16, 1998, stated that, upon review of his symptoms, findings and surgery, it was difficult to assign a particular injury in this case. Dr. Altenau indicated that, although injuries over time certainly could be causative, appellant had not described a particular incident believed to have caused his condition.

Accordingly, the Board finds that the medical evidence does not contain a reasoned medical opinion, based on a complete background, on causal relationship between appellant's cervical condition and the identified employment factors. It is appellant's burden to submit such evidence and he has failed to meet his burden in this case.

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<sup>5</sup> *Victor J. Woodhams, supra* note 3.

<sup>6</sup> *Kathryn Haggerty*, 45 ECAB 383, 389 (1994).

The decisions of the Office of Workers' Compensation Programs dated February 8, 1999 and December 7, 1998 are affirmed.

Dated, Washington, D.C.  
August 23, 2000

David S. Gerson  
Member

Willie T.C. Thomas  
Member

A. Peter Kanjorski  
Alternate Member