

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JAMES A. BECKHAM and U.S. POSTAL SERVICE,
INFORMATION DIVISION, SOUTHERN REGION, Memphis, TN

*Docket No. 99-2460; Oral Argument Held June 13, 2000;
Issued August 2, 2000*

Appearances: *Laura Tek, Esq.*, for appellant; *Miriam D. Ozur, Esq.*,
for the Director, Office of Workers' Compensation Programs.

DECISION and ORDER

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

The issue is whether appellant has met his burden of proof to establish that he had any disability after May 21, 1981 causally related to his employment injury.

This case has been on appeal previously. By decision dated January 13, 1982, the Board found that the Office of Workers' Compensation Programs met its burden of proof to terminate appellant's wage-loss compensation benefits effective, May 21, 1981, on the grounds that he was no longer disabled from his sedentary position as a statistical programs analyst.¹ In decisions dated February 18, 1988² and April 14, 1998,³ the Board affirmed Office decisions dated September 3, 1987 and January 19, 1996 in which the Office denied appellant's request for reconsideration. The law and facts as set forth in the previous decisions are incorporated herein by reference.

On May 2, 1998 appellant requested reconsideration and submitted additional evidence. In a November 5, 1998 decision, the Office found that the medical evidence submitted was insufficient to warrant modification. On February 22, 1999 appellant, through counsel, requested reconsideration and submitted additional evidence. By decision dated March 18, 1999, the Office denied the reconsideration request, finding the evidence submitted repetitive. On July 1, 1999 appellant, through counsel, again requested reconsideration and submitted additional evidence. By decision dated July 26, 1999, the Office denied modification of the prior

¹ Docket No. 82-117.

² Docket No. 88-64.

³ Docket No. 96-1051.

decision. In the attached memorandum, the Office found that the medical evidence was insufficient to establish that appellant continued to be disabled for work after May 20, 1981. The instant appeal follows.

The Board finds that appellant failed to establish that he had any disability after May 21, 1981 causally related to his employment injury.

In the instant case, the Board has previously found that the Office met its burden of proof to terminate appellant's wage-loss compensation effective May 21, 1981.⁴ The burden, therefore, shifted to appellant to establish that he had any continuing disability causally related to his accepted injury.⁵ Causal relationship is a medical issue,⁶ and the medical evidence required to establish a causal relationship 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 on 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.⁷

The evidence submitted subsequent to the Board's April 14, 1998 decision includes magnetic resonance imaging scans dated July 31, 1998 of the cervical, thoracic and lumbar spines which revealed degenerative disc disease throughout. Dr. Timothy P. Schoettle, a Board-certified neurosurgeon, provided a February 7, 1998 report in which he advised that he had been appellant's treating physician since 1988 and opined that appellant's advanced osteoarthritis and arachnoiditis were causally related to the 1973 employment-related motor vehicle accident.

In reports dated August 26, 1998 and January 28, 1999, Dr. John P. Howser, a Board-certified neurosurgeon, opined that appellant's condition was employment related. He also provided deposition testimony on June 11, 1999 in which he stated that his old records were missing and that he did not see appellant from September 5, 1979 until July 30, 1998. Dr. Howser recognized that in 1979 he advised that appellant could perform light duty and testified that he concurred with Dr. Schoettle's opinion and disagreed with the findings of Dr. William Clark who had provided a second opinion for the Office in 1981. Dr. Howser concluded that appellant could not return to the date-of-injury job.

The Board finds this evidence insufficient to establish that appellant had any continuing employment-related disability as it does not contain a well-rationalized medical opinion relating appellant's current condition to the November 21, 1973 employment injury. The record in this case indicates that appellant's date-of-injury position was sedentary.⁸ Dr. Howser indicated in

⁴ Docket No. 82-117 (issued January 13, 1982).

⁵ See *George Servetas*, 43 ECAB 424 (1992).

⁶ *Mary J. Briggs*, 37 ECAB 578 (1986).

⁷ *Gary L. Fowler*, 45 ECAB 365 (1994); *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁸ See *Corlisia Sims*, 46 ECAB 963 (1995).

1979 that appellant could return to light duty and did not see appellant again until July 1998. There is nothing in the record to indicate that Dr. Schoettle reviewed the physical requirements of appellant's position. These opinions, therefore, lack the necessary rationale to establish continuing work-related disability. Further, appellant has submitted no reasoned medical opinion supporting a causal relationship between the November 21, 1973 motor vehicle accident and his current condition, he has not met his burden of proof.⁹

The decisions of the Office of Workers' Compensation Programs dated July 26 and March 18, 1999 and November 5, 1998 are hereby affirmed.

Dated, Washington, DC
August 2, 2000

Michael J. Walsh
Chairman

Willie T.C. Thomas
Alternate Member

A. Peter Kanjorski
Alternate Member

⁹ See *Jacquelyn L. Oliver*, 48 ECAB 232 (1996).