

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of TEODISA M. BASCOS and U.S. POSTAL SERVICE,
POST OFFICE, Palatine, IL

*Docket No. 98-2210; Submitted on the Record;
Issued February 28, 2000*

DECISION and ORDER

Before WILLIE T.C. THOMAS, MICHAEL E. GROOM,
A. PETER KANJORSKI

The issue is whether appellant has established that her right knee condition was caused or aggravated by factors of her federal employment.

On February 5, 1998 appellant, then a 36-year-old mail processor, filed a notice of occupational disease and claim for compensation (Form CA-2) alleging that on December 1, 1997 she first became aware that the pain in both knees, particularly the right knee, was due to her standing on her feet six days a week for eight hours. She was placed on limited-duty work from February 6 to April 17, 1998. Appellant was off work from April 18 to 26, 1998 and returned to limited duty on April 27, 1998.

In a letter dated February 17, 1998, Dr. Mitchell L. Goldflies¹ opined that appellant "may have meniscal pathology or patellofemoral compression syndrome with arthritis as the source of her symptoms. This would be related to her work activities." Dr. Goldflies noted that appellant had developed pain in her right knee due to walking at work.

On April 13, 1998 the Office of Workers' Compensation Programs requested clarification from Dr. Goldflies regarding the specific work activities he attributed appellant's right knee condition to and whether these work activities directly caused or aggravated her knee condition.

By letter dated April 14, 1998, Dr. Goldflies stated that appellant felt that her right knee pain was due to walking at work and that appellant felt that her condition was caused and aggravated by her walking at work.

¹ A Board-certified orthopedic surgeon.

In a fitness-for-duty evaluation dated May 15, 1998, the employing establishment physician indicated that appellant had a nonwork-related injury to her right knee at home in February 1998 and that appellant was capable of performing her regular work.

By decision dated May 27, 1998, the Office denied appellant's claim on the grounds that appellant had not established that her right knee condition was caused or aggravated by her federal employment duties.²

The Board finds that appellant has not established that her right knee condition was caused or aggravated by factors of her federal employment.

An employee seeking benefits under the Federal Employees' Compensation Act³ 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 timely filed within the applicable time limitation period 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.⁴ These are essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁵

To establish appellant's occupational disease claim that she has sustained a disabling condition in the performance of duty, appellant must submit the following: (1) factual evidence identifying and supporting employment factors or incidents alleged to have caused or contributed to her condition; (2) rationalized medical opinion evidence establishing a condition to her right knee; and (3) rationalized medical opinion evidence establishing that the identified compensable employment factors are causally related to the condition.⁶ Rationalized medical opinion evidence is medical evidence that 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. Such an opinion of the physician must be based on a complete factual and medical background of the claimant,⁷ must be one of reasonable certainty⁸ and must

² Subsequent to the Office's May 27, 1998 decision, appellant submitted additional medical evidence with her June 24, 1998 request for reconsideration. The Board may not consider new evidence on the first time on appeal; see 20 C.F.R. § 501.2(c). Further, the Board notes that the record does not contain an Office decision addressing appellant's reconsideration request and that appellant filed her appeal with the Board on July 10, 1998.

³ 5 U.S.C. §§ 8101-8193.

⁴ *Joe D. Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁵ *Delores E. Ellyett*, 41 ECAB 992 (1990); *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁶ See *Purvis Nettles*, 44 ECAB 623, 627 (1993).

⁷ *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

⁸ See *Morris Scanlon*, 11 ECAB 384, 385 (1960).

be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by appellant.⁹

In the present case, the only medical evidence appellant submitted in support of her claim were reports from Dr. Goldflies' opining that appellant was disabled and that she believed her knee pain was due to her work activities, specifically her walking at work. The Office, in an April 13, 1998 letter, requested clarification from Dr. Goldflies and advised him of the information needed to support appellant's claim. Dr. Goldflies' April 14, 1998 response indicated that appellant's condition was caused by her walking at work and that appellant believed that her knee pain was caused and aggravated by her walking at work. Dr. Goldflies' report contains brief, conclusive statements summarily indicating that appellant's knee pain was due to her walking at work, but do not provide a probative, rationalized opinion explaining how appellant's knee pain was caused or aggravated by factors or conditions of her federal employment.

An award of compensation may not be based on surmise, conjecture or speculation. 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 employment is sufficient to establish causal relationship.¹⁰ Causal relationship must be established by rationalized medical opinion evidence. The Office advised appellant of the type of evidence required to establish her claim; however, appellant failed to submit such evidence. In the instant case, none of Dr. Goldflies' medical reports contain any rationalized medical opinion relating the cause of the alleged condition to factors of her federal employment. The reports are therefore of limited probative value in that they did not provide adequate medical rationale in support of their conclusions.¹¹ The reports did not explain the process through which factors of appellant's employment would have been competent to cause the claimed knee pain.

Accordingly, as appellant failed to submit any probative, rationalized medical evidence in support of a causal relationship between her claimed condition and factors of her employment, the Office properly denied appellant's claim for compensation.

⁹ *Id.*

¹⁰ *Victor J. Woodhams, supra note 5.*

¹¹ *William C. Thomas, 45 ECAB 591 (1994).*

The decision of the Office of Workers' Compensation Programs dated May 27, 1998 is affirmed.

Dated, Washington, D.C.
February 28, 2000

Willie T.C. Thomas
Alternate Member

Michael E. Groom
Alternate Member

A. Peter Kanjorski
Alternate Member