

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of GERALD T. GARNER and U.S. POSTAL SERVICE,
GENERAL MAIL FACILITY, Philadelphia, PA

*Docket No. 97-2877; Submitted on the Record;
Issued January 7, 2000*

DECISION and ORDER

Before GEORGE E. RIVERS, WILLIE T.C. THOMAS,
MICHAEL E. GROOM

The issue is whether appellant has met her burden of proof in establishing that his claimed condition or disability was causally related to a February 19, 1996 employment incident.

On March 19, 1996 appellant, a 46-year-old mail handler, filed a claim for benefits and alleging that he injured his groin and lower back on February 19, 1996 while moving some equipment.¹ Appellant stopped working on the date of injury, and has not been employed since that time.

In support of his claim, appellant submitted a Form CA-20 completed by Dr. Jerome M. Cotler, a Board-certified orthopedic surgeon, who indicated a diagnosis of "small L4-5 disc right," notes the history of injury as "low back and inguinal pain," and stated that the date of injury was September 22, 1994. Appellant also submitted an August 30, 1996 report from Dr. Mitchell J.M. Cohen, a psychiatrist. Dr. Cohen noted a history of right groin pain radiating into the perineum around the right hip and up to the right thorax. He advised that appellant, based on the available records, probably had a mild degenerative disc lumbar spinal disease, and perhaps some S1 joint disease, although this would not explain his clinical presentation. In addition, appellant submitted myelogram reports dated February 17 and February 23, 1996. The February 23, 1996 report diagnosed mild ventral epidural defects from L2-S1, poor filling of the right L4-5 root sleeve suspicious for herniated nucleus pulposus, and cervical ventral extradural defects at C3-4, C5-6 and C6-7.

By letter dated October 7, 1996, the Office requested that appellant submit additional information in support of his claim, including a medical report, opinion and diagnosis from a physician, supported by medical reasons, as to how the reported work incident caused or

¹ Appellant had initially filed a claim based on an injury to his right groin on September 22, 1994, which the Office of Workers' Compensation Programs accepted for right groin strain. The Office subsequently denied claims appellant filed for recurrence of disability in decisions dated April 25, August 2 and September 21, 1995 and May 23, 1996. Although appellant filed a Form CA-2a claim for recurrence on March 19, 1996, the Office found that a new incident had occurred on February 19, 1996 and adjudicated it as a new claim.

aggravated the claimed injury. The Office informed the employee that he had 30 days to submit the requested information.

In response to the Office's letter, appellant submitted: an undated Form CA-20 from Dr. Cotler, which indicated that the date of injury was February 19, 1996, that he was totally disabled as of that date and continuing, and essentially reiterated his earlier findings and conclusions. He checked a box indicating that he believed the condition he found was caused or aggravated by an employment activity. Dr. Cotler also submitted reports dated March 1 and June 14, 1996. Dr. Cotler stated in his March 1, 1996 report that appellant had "far-out disc" at L4-5 and had pain primarily in the ilioinguinal area, and advised that he had not worked since February 19, 1996. In his June 14, 1996 report, Dr. Cotler noted findings on examination and concluded, "I have a hard time finding this man's total symptom complex to be on an organic basis."

Appellant also submitted an August 19, 1996 report from Dr. Mitchell Freedman, Board-certified in physical medicine and rehabilitation, and an October 16, 1996 report from Dr. Gary Muller, a specialist in general and orthopedic surgery, who administered a fitness-for-duty examination of appellant on October 3, 1996. Dr. Freedman stated that appellant had significant lower back pain radiating down both lower extremities, with occasional radiation up his back and down the right upper extremity into his index and middle fingers. He advised that a recent electromyogram (EMG) of the upper extremities revealed a subacute C6-7 radiculopathy, and noted limited motion in the lumbar and cervical spine on examination. In his October 16, 1996 report, Dr. Muller noted that appellant related that he had sustained an injury on September 22, 1994, as a result of which he had allegedly injured his upper and lower back, with pain extending into his right groin, right hip and right leg. Dr. Muller stated that appellant had eventually returned to work in a light-duty job on April 1995, and had eventually returned to his full-duty job, where he worked until the February 19, 1996 work injury. He advised that a computerized axial tomography (CAT) scan of the lumbar spine in February 1996 revealed a herniated disc at L4-5, with ligamentous and facet hypertrophy from L2-5. Dr. Muller opined that the findings from his examination supported appellant's subjective complaints and the diagnosis of L4-5 herniated disc. He stated, however, that due to a lack of available records, he was unsure of the exact nature of appellant's physical problems. Dr. Muller stated:

"It seems that as a result of the second injury in February 1996, there has been a change in his myelogram from the myelogram that was done presecond injury, which could account for some of his symptoms. However, I am not sure that the initial right hip and leg pain after the first injury was work related. Again, in order to definitively comment on [appellant's] prognosis or make treatment recommendations, I would need to see his full medical record. In the interim, I feel that [appellant] is capable of working in a light-duty capacity with no lifting of greater than 10 pounds, and with the ability to change positions as needed."

By decision finalized on November 5, 1996, the Office denied appellant's claim, finding that appellant failed to submit sufficient medical evidence establishing that the claimed conditions and/or disability were caused or aggravated by the February 19, 1996 incident.

By letter dated December 30, 1996, appellant requested reconsideration. Accompanying his request was a December 9, 1996 report from Dr. Colter, his treating physician. Dr. Colter noted appellant's history of injury on February 19, 1996 and stated: "If this is as the facts would

support, it would appear that this injury of February 19, 1996, did probably aggravate his preexisting circumstance, for which I have been seeing him since October 1995.”

By decision finalized on February 12, 1997, the Office denied appellant’s claim on reconsideration, finding that the medical evidence he submitted was not sufficient to warrant modification of its previous decision.

By letter dated April 20, 1997, appellant requested reconsideration. In support of his request appellant submitted numerous treatment notes and reports, most of which had been reviewed by the Office in prior decisions. The only new medical evidence appellant submitted was a May 15, 1997 treatment note from Dr. Colter, who merely indicated he had been treating appellant for low back pain into the right groin and leg since October 13, 1995 and listed the dates he had examined him.

By decision dated September 5, 1997, the Office denied appellant’s claim on reconsideration, finding that the medical evidence he submitted was not sufficient to warrant modification of its previous decision.

The Board finds that appellant has not met his burden of proof in establishing that his claimed condition or disability was causally related to his February 19, 1996 employment incident.

An employee seeking benefits under the Federal Employees’ Compensation Act² has the burden of establishing that 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.³ These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁴

The medical evidence required to establish causal relationship is usually rationalized medical evidence. Rationalized medical opinion evidence is medical evidence which 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. 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.⁵

In this case, appellant has the burden of establishing by the weight of the substantial, reliable and probative evidence, a causal relationship between his claimed condition and/or

² 5 U.S.C. §§ 8101-8193.

³ *Joe Cameron*, 42 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁴ *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁵ *Id.*

disability and the employment incident of February 19, 1996. This burden includes providing medical evidence from a physician who concludes that the disabling condition is causally related to employment factors and supports that conclusion with sound medical reasoning.⁶

In this regard, the Board has held that the mere fact that a condition manifests itself during a period of employment does not raise an inference that there is a causal relationship between the two.⁷ Neither the fact that the condition became apparent during a period of employment nor the belief that the condition was caused or aggravated by employment factors or incidents is sufficient to establish causal relationship.⁸ Causal relationship must be substantiated by reasoned medical opinion evidence which is appellant's responsibility to submit. In the instant case, none of the medical reports pertaining to the claimed conditions contain any rationalized medical opinion which relates the cause of these claimed conditions to the February 19, 1996 employment injury.

In support of his claim, appellant submitted Dr. Cohen's August 30, 1996 report, Dr. Freedman's August 19, 1996 report, the October 16, 1996 fitness-for-duty examination report from Drs. Muller and Cotler's March 1, June 14 and December 9, 1996 and May 15, 1997 reports. Drs. Cohen and Freedman noted appellant's history of right groin and lower back pain, reviewed diagnostic tests and stated findings on examination, but made no reference to the February 19, 1996 work injury. In his October 16, 1996 report, Dr. Muller confirmed the diagnosis of herniated disc at L4-5 and noted changes in the myelogram taken after the February 19, 1996 work injury, but stated that due to a lack of available records, he was uncertain regarding the exact nature of appellant's physical problems. None of these reports provided a probative, rationalized medical opinion establishing that appellant's claimed conditions and/or disability was caused or aggravated by the February 19, 1996 work injury.

Dr. Cotler, appellant's treating physician, reiterated the diagnosis of herniated disc at L4-5 in his March 1, 1996 report, stated that appellant had pain primarily in the ilioinguinal area, and noted that he had not worked since February 19, 1996, but opined in his June 14, 1996 report that he had difficulty believing that his symptoms had an organic basis. Dr. Colter's May 15, 1997 report simply lists the dates on which he had treated appellant.

The December 9, 1996 report of Dr. Cotler merely asserts that, based on appellant's history of injury, "it would appear" that his February 19, 1996 employment injury probably aggravated his preexisting circumstance. Dr. Cotler's opinion on causal relationship is of limited probative value in that he did not provide adequate medical rationale in support of his conclusions.⁹ He did not describe appellant's accident in any detail or how the accident would have been competent to cause the claimed lower back and right groin conditions. Moreover, his opinion is of limited probative value for the further reason that it is generalized in nature and equivocal in that he only noted summarily that appellant's conditions were causally related to the February 19, 1996 employment incident. Furthermore, the form reports from Dr. Cotler that

⁶ See *Nicolea Bruso*, 33 ECAB 1138, 1140 (1982).

⁷ See *Joe T. Williams*, 44 ECAB 518, 521 (1993).

⁸ *Id.*

⁹ *William C. Thomas*, 45 ECAB 591 (1994).

support causal relationship with a checkmark are insufficient to establish the claim, as the Board has held that without further explanation or rationale, a checked box is not sufficient to establish causation.¹⁰

Dr. Cotler's reports do not constitute sufficient medical evidence demonstrating a causal connection between appellant's February 19, 1996 work incident and his lower back and right groin conditions. Causal relationship must be established by rationalized medical opinion evidence. Appellant has failed to submit such evidence which would indicate that his claimed condition or disability was caused or aggravated by his February 19, 1996 employment incident.

Consequently, appellant has not met his burden of proof, as he failed to establish that his claimed condition/disability was caused or aggravated by the February 19, 1996 employment incident.

The decisions of the Office of Workers' Compensation Programs dated September 5 and February 12, 1997 and November 5, 1996 are hereby affirmed.

Dated, Washington, D.C.
January 7, 2000

George E. Rivers
Member

Willie T.C. Thomas
Alternate Member

Michael E. Groom
Alternate Member

¹⁰ *Debra S. King*, 44 ECAB 203 (1992); *Salvatore Dante Roscello*, 31 ECAB 247 (1979).