

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of WAYNE CARTER and DEPARTMENT OF VETERANS AFFAIRS,
MEDICAL CENTER, Baltimore, MD

*Docket No. 98-1987; Submitted on the Record;
Issued June 8, 2000*

DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,
A. PETER KANJORSKI

The issue is whether appellant has met his burden of proof to establish disability causally related to his March 25, 1997 employment injury.

On March 27, 1997 appellant, then a 49-year-old utilities systems operator, filed a notice of traumatic injury and claim for compensation, Form CA-1, alleging that, on March 25, 1997, he injured his back and hip while aiding police in separating two vehicles that had been in an accident. The employing establishment authorized medical treatment. By letter dated June 10, 1997, the Office of Workers' Compensation Programs advised appellant regarding the type of medical evidence and accompanying documentation needed to support his claim. Appellant submitted no evidence in support.

By decision dated July 11, 1997, the Office denied the claim for failure to establish fact of injury.

Appellant submitted the following evidence, which was received by the Office on July 17, 1997. A March 27, 1997 radiology report of the lumbar spine revealed no evidence of fracture or deconstructive process. Dr. Christine Helinski, a Board-certified internist, examined appellant for the first time on April 17, 1997 and diagnosed low back strain related to his employment. She referred appellant to a physical therapist, whose notes are contained in the record. In a progress note and a return to work certificate dated May 12, 1997, Dr. Helinski indicated that appellant could return to work (full status) on May 19, 1997.

By letter dated July 30, 1997, appellant requested a hearing before an Office hearing representative. With his request, appellant submitted a July 22, 1997 CA-16 form from Dr. Helinski who diagnosed a lumbar strain and indicated with a checkmark "yes" that appellant's condition was caused by an employment activity. She further opined that appellant was totally disabled from March 25 until May 19, 1997. Appellant also submitted progress notes

from Dr. Helinski which had been previously submitted and records dated March 27, 1997 from a physician's assistant who examined appellant on behalf of the employing establishment.

On April 2, 1998 the Office held a hearing at which appellant had the opportunity to testify. Appellant testified that he sought medical treatment from the employing establishment the Monday following the incident and was told to see his own physician since he had a sprained back. Appellant further stated that, although he missed 45 days of work, he has had no continuing problems since his return to work.

By decision dated May 4, 1998, the Office hearing representative modified the July 11, 1997 Office decision to find that appellant sustained a lumbar sprain in the performance of duty on March 25, 1997. The Office hearing representative authorized payment of medical benefits. The Office hearing representative, however, found no evidence of any disability causally related to the March 25, 1997 injury and denied wage-loss compensation and continuation of pay.

The Board finds that appellant failed to sustain his burden of proof in establishing any disability causally related to his March 25, 1997 employment injury.

An employee seeking benefits under the Federal Employees' Compensation Act¹ 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.² Whether a particular injury causes an employee disability for employment is a medical issue which must be resolved by competent medical evidence.³

Causal relationship is a medical issue,⁴ and the medical evidence required to establish causal relationship is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized medical opinion on 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,⁵ 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.⁶

¹ 5 U.S.C. §§ 8101-8193.

² *Elaine Pendleton*, 40 ECAB 1143 (1989).

³ *Maxine J. Sanders*, 46 ECAB 835, 839 (1995); *Debra A. Kirk-Littleton*, 40 ECAB 703 (1990).

⁴ *Mary A. Howard*, 45 ECAB 646 (1994); *Cynthia M. Judd*, 42 ECAB 246 (1990); *Terry R. Hedman*, 38 ECAB 222 (1986).

⁵ *See Morris Scanlon*, 11 ECAB 394, 385 (1960).

⁶ *Gary L. Fowler*, 45 ECAB 365 (1994); *Victor J. Woodhams*, 41 ECAB 345 (1989).

Under the Act, the term “disability” means incapacity, because of an employment injury, to earn the wages that the employee was receiving at the time of injury.⁷ Disability is thus not synonymous with physical impairment, which may or may not result in an incapacity to earn the wages.⁸ An employee who has a physical impairment causally related to a federal employment injury, but who nonetheless has the capacity to earn wages he was receiving at the time of injury, has no disability as that term is used in the Act.⁹

In the instant case, the hearing representative’s May 4, 1998 decision found that fact of injury was established but that appellant had not established that any disability resulted from that injury. Although the Office properly advised appellant in a letter dated June 10, 1997 as to the type of medical evidence required to support his claim, appellant provided only medical reports from Dr. Helinski.¹⁰ In the July 22, 1997 CA-16 form, Dr. Helinski indicated with a checkmark “yes” that appellant’s condition was caused by his March 25, 1997 work injury and concluded that he was totally disabled from March 25 through May 19, 1997. The Board has held that an opinion on causal relationship which consists only of a physician checking “yes” to a medical form report question on whether the claimant’s disability was related to the history given is of little probative value. Without any explanation or rationale for the conclusion reached, such report is insufficient to establish causal relationship.¹¹ As Dr. Helinski has provided no rationale for her opinion,¹² the medical evidence is thus insufficient to establish that appellant sustained any disability causally related to his employment-related lumbar sprain.¹³ Consequently, the Office hearing representative properly denied appellant’s claim for wage-loss compensation and continuation of pay.

⁷ *Richard T. DeVito*, 39 ECAB 668 (1988).

⁸ *See Fred Foster*, 1 ECAB 21 (1947).

⁹ *See Maxine J. Sanders*, *supra* note 3.

¹⁰ Physical therapists are not physicians under the Act; *see* 5 U.S.C. § 8101(2).

¹¹ *Lucrecia M. Nielson*, 41 ECAB 583, 594 (1991).

¹² *George Randolph Taylor*, 6 ECAB 968 (1954) (medical conclusions unsupported by rationale are of little probative value).

¹³ Appellant is properly entitled to medical benefits in this case. The Board notes, however, that time missed from work due to medical treatment for an employment-related injury may be compensable; *see Charles E. Robinson*, 47 ECAB 536, 538 (1996).

The decision of the Office of Workers' Compensation Programs dated May 4, 1998 is hereby affirmed.

Dated, Washington, D.C.
June 8, 2000

Michael J. Walsh
Chairman

David S. Gerson
Member

A. Peter Kanjorski
Alternate Member