

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of PHILLIP B. AMIDON and DEPARTMENT OF VETERANS AFFAIRS,  
TOGUS VETERANS ADMINISTRATION HOSPITAL, Togus, ME

*Docket No. 99-279; Submitted on the Record;  
Issued May 2, 2000*

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DECISION and ORDER

Before GEORGE E. RIVERS, DAVID S. GERSON,  
WILLIE T.C. THOMAS

The issue is whether appellant has met his burden to establish that he sustained a back condition causally related to factors of his federal employment.

On July 31, 1998 appellant, then a 48-year-old gastroenterologist, filed a traumatic injury claim alleging that on December 7, 1997 he slipped on the ice at the employing establishment, injuring his back. He stopped work on December 8, 1997 and returned to work on December 22, 1997. By decision dated September 11, 1998, the Office of Workers' Compensation Programs denied appellant's claim on the grounds that his claimed condition was not causally related to factors of his federal employment.

The Board has duly reviewed the case on appeal and finds that appellant has not met his burden of proof to establish that he sustained a back injury due to factors of his federal employment.

An employee seeking benefits under the Federal Employees' Compensation Act 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>1</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>2</sup>

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<sup>1</sup> *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

<sup>2</sup> *Daniel J. Overfield*, 42 ECAB 718, 721 (1991).

In order to determine whether an employee actually sustained an injury in the performance of duty, the Office begins with an analysis of whether fact of injury has been established. Generally, fact of injury consists of two components which must be considered in conjunction with one another. The first component to be established is that the employee actually experienced the employment incident which is alleged to have occurred.<sup>3</sup> The second component is whether the employment incident caused a personal injury and generally can be established only by medical evidence.

In the present case, the Office found that the evidence of file supports the fact that the claimed events, incidents or exposures occurred at the time, places and in the manners alleged, but denied appellant's claim for compensation on the grounds that the medical evidence of record did not establish that his claimed medical condition resulted from the accepted incident.

To establish a causal relationship between the condition, as well as any attendant disability claimed, and the employment event or incident, the employee must submit rationalized medical opinion evidence, based on a complete factual and medical background, supporting such a causal relationship.<sup>4</sup> 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. The weight of medical evidence is determined by its reliability, its probative value, its convincing quality, the care of analysis manifested and the medical rationale expressed in support of the physician's opinion.<sup>5</sup>

In support of his claim for a lumbar strain, appellant submitted a medical report dated December 13, 1997 from his treating physician, Dr. Thomas C. Doolittle, a Board-certified neurological surgeon. He noted that appellant had been referred to him by Dr. Allen Jervey for intractable nonradiating back pain.<sup>6</sup> In the section of his report designated for the history of the present illness, Dr. Doolittle stated, in pertinent part:

"The entire onset of the low back pain and spinal deformity is three weeks. He has had prior episodes over the past five years with on again, off again back pain, deformity. Each time he has been able to improve normal alignment by use of the McKenzie exercises. He is now three weeks post acute deformity with considerable back pain and residual deformity."

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<sup>3</sup> *Elaine Pendleton, supra* note 1.

<sup>4</sup> *See* 20 C.F.R. § 10.110(a); *John M. Tornello*, 35 ECAB 234 (1983).

<sup>5</sup> *James Mack*, 43 ECAB 321 (1991).

<sup>6</sup> The record does not contain any medical reports from Dr. Jervey.

Dr. Doolittle listed his findings on physical examination and diagnosed “acute lumbar strain secondary to physical deconditioning. [Appellant] had admitted becoming lax in his personal exercise program.” This report is not sufficient to meet appellant’s burden of proof as his opinion does not causally relate appellant’s diagnosed back condition to his slip on the ice while at work, but rather relates his condition to physical deconditioning due to lack of exercise. In addition, Dr. Doolittle lists the date of injury as having occurred three weeks prior to his December 13, 1997 examination, which would place the date of injury approximately two weeks prior to the date of the incident for which appellant filed his claim.

The remainder of the medical evidence in the record consists of treatment notes dated December 19, 1997 and January 21, 1998, and an x-ray report and magnetic resonance imaging report dated January 19, 1998, which do not address appellant’s history of injury and do not provide an opinion on the causal relationship between that injury and his diagnosed conditions. By letter dated August 12, 1998, the Office advised appellant of the type of medical evidence necessary to meet his burden of proof. As appellant has not submitted such evidence, the Office properly denied his claim.

The decision of the Office of Workers’ Compensation Programs dated September 11, 1998 is hereby affirmed.

Dated, Washington, D.C.  
May 2, 2000

George E. Rivers  
Member

David S. Gerson  
Member

Willie T.C. Thomas  
Alternate Member