

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of NICHOLAS J. ESS and U.S. POSTAL SERVICE,
POST OFFICE, Fort Wayne, IN

*Docket No. 99-2122; Submitted on the Record;
Issued September 11, 2000*

DECISION and ORDER

Before MICHAEL E. GROOM, A. PETER KANJORSKI,
VALERIE D. EVANS-HARRELL

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

On March 9, 1999 appellant, then a 62-year-old letter carrier, filed a notice of occupational disease and claim for compensation alleging that he developed spinal stenosis as a result of walking and standing in the performance of duty. Appellant did not stop work but he was assigned to a limited-duty position effective April 12, 1999.

In support of his claim, appellant submitted a magnetic resonance imaging (MRI) scan of the lumbar spine dated March 5, 1999, which diagnosed mild spinal stenosis, disc bulging at L3-4 and multilevel degenerative changes.

By letter dated March 25, 1999, the Office of Workers' Compensation Programs advised appellant of the factual and medical evidence required to establish his claim and allotted until April 25, 1999 to submit additional evidence. Appellant responded on April 23, 1999 to certain questions posed by the Office. No additional medical evidence was submitted.

In a decision dated May 5, 1999, the Office denied appellant's claim on the grounds that he failed to establish that his back condition was causally related to factors of his federal employment.

On May 7, 1999 the Office received additional medical evidence submitted by appellant. Appellant, however, did not request reconsideration.

In a March 24, 1999 report, Dr. Michael A. Arata, a Board-certified orthopedist, noted that appellant was referred for evaluation of lumbar spinal stenosis. He reported that appellant complained of soreness and stiffness in his buttock, more so on the right side, associated with climbing and descending stairs. Dr. Arata indicated that appellant's leg had involuntarily collapsed while descending stairs in February 1999. He further noted physical findings and

diagnosed that appellant suffered from lumbar spinal stenosis at L3-4 and L4-5. In an April 14, 1999 treatment note, Dr. Arata advised that appellant's symptoms had improved after taking medication, but the doctor thought that appellant should consider a lumbar decompression.

The Office, by letter dated May 7, 1999, denied modification of the May 7, 1999 decision as the evidence failed to address causal relationship.¹

The Board finds that appellant has failed to establish that he sustained a back condition causally related to factors of his federal employment.²

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 and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease claim.⁵

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the employment factors identified by the claimant were the proximate cause of the condition for which compensation is claimed, or stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant. The medical evidence required to establish a causal relationship, generally, is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence which includes a physician's opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors.⁶

In the instant case, appellant did not submit a reasoned medical opinion, based upon a complete factual and medical background, addressing how employment factors identified by appellant were causally related to the diagnosed condition of spinal stenosis. In fact, none of the

¹ The Board finds the May 7, 1999 letter constitute a merit review.

² Appellant submitted additional evidence following the Office's May 7, 1999 decision. The Board, however, does not have jurisdiction to consider evidence that was not in the case record before the Office at the time of issuance of the final decision. *See* 20 C.F.R. § 501.2.

³ 5 U.S.C. §§ 8101-8193; *see also* 20 C.F.R. §§ 10.115.

⁴ *Joe D. Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

⁵ *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁶ *James D. Carter*, 43 ECAB 113 (1991); *George A. Ross*, 43 ECAB 346 (1991).

medical evidence submitted by appellant in support of his claim even addresses the issue of causal relationship.

The mere fact that a condition manifests itself or worsens during a period of employment does not raise an inference of causal relationship between the condition and the employment.⁷ Because appellant has not submitted a rationalized medical opinion to establish that his back condition is causally related to factors of his federal employment, appellant has failed to carry his burden of proof in this case. Consequently, the Office properly denied compensation.

The decisions of the Office of Workers' Compensation Programs dated May 7 and 5, 1999 are hereby affirmed.

Dated, Washington, DC
September 11, 2000

Michael E. Groom
Alternate Member

A. Peter Kanjorski
Alternate Member

Valerie D. Evans-Harrell
Alternate Member

⁷ *Jessie Gullede*, 43 ECAB 372 (1992).