

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of CALVIN C. CUNHA and U.S. POSTAL SERVICE,
POST OFFICE, West Sacramento, CA

*Docket No. 01-939; Submitted on the Record;
Issued December 18, 2001*

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
BRADLEY T. KNOTT

The issue is whether appellant's back and leg condition is causally related to the April 28, 1999 employment injury.

On August 11, 1999 appellant, then a 50-year-old letter carrier, filed a traumatic injury claim, alleging that he sustained a herniated disc when he picked up a sack of parcels on April 28, 1999.

In a report dated August 5, 1999, appellant's treating physician, Dr. Sherry L. Taylor, a Board-certified neurological surgeon, noted that appellant had a history of low back pain and pain radiating down the posterior aspect of his left leg and also had a couple of episodes of low back pain and right leg pain. She stated that in April 1999 he went to pick up a sack of parcels off the floor and developed severe low back pain and the pain radiated down the back of his left leg to the ankle. Dr. Taylor reviewed a magnetic resonance imaging (MRI) scan dated August 5, 1999 and opined that appellant had an "extremely large" disc herniation at L4-5 and an open sore with a history of severe uncontrolled diabetes. She stated that she discussed the benefits of a microdiscectomy with appellant.

By decision dated September 28, 1999, the Office of Workers' Compensation Programs denied the claim, stating that the evidence did not establish that appellant sustained an injury on April 28, 1999.

By letter dated October 8, 1999, appellant requested an oral hearing before an Office hearing representative, which was held on February 16, 2000. At the hearing, appellant explained the circumstances of the April 28, 1999 injury and how in the beginning he thought he had merely pulled a muscle. He stated that he had pain in his buttocks and leg.

The MRI scan dated August 4, 1999 showed a large focal, disc protrusion at L4-5 resulting in significant spinal stenosis and moderate degenerative disc disease in the mid lumbar region from L2 through 4.

By letter dated August 20, 1999, the Office requested additional information from appellant including a narrative report from his treating physician explaining how the specific incident at work contributed to his condition.

In a statement dated February 18, 2000, Dr. Taylor stated that appellant had been under her care for treatment of low back and leg pain since August 1999. She stated that appellant's job required repetitive bending, stooping and lifting as well as management of heavy parcels and mailbags. Dr. Taylor stated that appellant's job contributed to and aggravated his underlying degenerative disc disease and current symptomatology.

By decision dated April 13, 2000, the Office hearing representative affirmed and modified in part the September 28, 1999 decision, stating that the evidence of record established that appellant sustained an injury on April 28, 1999 but failed to establish that appellant's back and leg condition were causally related to his employment.

By letter dated October 26, 2000, appellant requested reconsideration of the Office's decision and resubmitted Dr. Taylor's February 18, 2000 statement and the August 4, 1989 MRI scan report.

By decision dated January 19, 2001, the Office denied appellant's request for reconsideration.

The Board finds that appellant did not establish that his back and left leg condition were causally related to the April 28, 1999 employment injury.

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 is causally related to the employment injury.¹ 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.²

The medical evidence required to establish a causal relationship, generally, is rationalized medical evidence. Rationalized medical evidence is medical evidence which includes a physician's rationalized medical 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.³

¹ *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

² *Daniel J. Overfield*, 42 ECAB 718, 721 (1991).

³ *Gary L. Fowler*, 45 ECAB 365, 371 (1994); *Ern Reynolds*, 45 ECAB 690, 695 (1994).

In this case, the only medical evidence which addresses causation is Dr. Taylor's February 18, 2000 statement in which she stated that appellant's job required bending, stooping and lifting as well as management of heavy parcels and mailbag and that his job contributed and aggravated his underlying degenerative disc disease and current symptomatology. Dr. Taylor did not provide a rationalized medical opinion explaining how the April 28, 1999 lifting incident caused appellant's low back and left leg pain. In fact, she did not mention the April 1999 lifting incident at all. The Board has held that a medical opinion not fortified by medical rationale is of little probative value.⁴ Moreover, the Office informed appellant of the evidence that was necessary to establish his claim and in his request for reconsideration, appellant resubmitted Dr. Taylor's February 18, 2000 statement, which the Office had already ruled, was deficient. Appellant was not responsive to the Office's request for the proper, rationalized medical evidence. He, therefore, failed to establish his claim.

The January 19, 2001 and April 13, 2000 decisions of the Office of Workers' Compensation Programs are hereby affirmed.

Dated, Washington, DC
December 18, 2001

David S. Gerson
Member

Willie T.C. Thomas
Member

Bradley T. Knott
Alternate Member

⁴ *Annie L. Billingsley*, 50 ECAB 210, 213 (1998).