

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of THOMAS R. DAYTON and DEPARTMENT OF THE INTERIOR,  
SEQUOIA KINGS NATIONAL PARK, Three Rivers, CA

*Docket No. 00-573; Submitted on the Record;  
Issued February 27, 2001*

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DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,  
MICHAEL E. GROOM

The issue is whether appellant met his burden of proof to establish that he sustained an injury in the performance of duty on July 12, 1999, causally related to his federal employment.

On July 23, 1999 appellant, then a 22-year-old backcountry laborer, filed a traumatic injury claim alleging that on July 12, 1999 he sustained chronic fatigue, diarrhea, vomiting and nausea, causally related to his employment. On the claim form, appellant stated that the cause of injury was unknown. On the reverse side of the claim form, appellant's supervisor noted that appellant first received medical care on July 16, 1999 at the Community Hospitals of Central California in Clovis, California. Appellant did not stop work.

To support his claim, appellant submitted a report dated July 16, 1999, in which Dr. William Wilson noted that appellant complained of watery diarrhea four or five times daily and diagnosed acute gastroenteritis and rule out escherichia coli and giardia. He also noted that appellant reported that no other employees on the trail crew were ill.

By letter dated August 10, 1999, the Office of Workers' Compensation Programs advised appellant of the type of evidence necessary to establish his claim and requested that he submit additional information. The Office requested that appellant respond to an enclosed list of questions.

In response, appellant submitted a July 16, 1999 report, in which Dr. Wilson noted appellant's complaints and his objective findings. He diagnosed acute gastroenteritis. Dr. Wilson advised appellant to rest, consume fluids and return for an examination if fever, chills, or blood in his stools developed. Appellant also submitted July 20, 1999 notes from Dr. Wilson stating his complaints.

Appellant further submitted responses to the Office's list of questions. He described his work duties and symptoms. Appellant explained that the trail crew worked to improve and maintain trails within Sequoia Kings Canyon National Park. Appellant stated that the cause of

his condition was unknown but his physician believed that it might have been caused by food poisoning or contaminated water. He asserted that he did not immediately seek treatment because fatigue is commonly associated with his work.

By decision dated September 20, 1999, the Office denied appellant's claim on the grounds that the evidence of record was insufficient to establish that his condition was causally related to his employment.

The Board finds that appellant did not meet his burden of proof to establish that he sustained an injury in the performance of duty on July 12, 1999, causally related to his federal employment.

An employee seeking benefits under the Federal Employees' Compensation Act<sup>1</sup> has the burden of establishing the essential elements of his 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 is causally related to the employment injury.<sup>2</sup> Regardless of whether the asserted claim involves traumatic injury or occupational disease, an employee must satisfy this burden of proof.<sup>3</sup>

To determine whether an employee sustained a traumatic injury in the performance of duty, the Office must determine whether "fact of injury" is established. First, an employee has the burden of demonstrating the occurrence of an injury at the time, place and in the manner alleged, by a preponderance of the reliable, probative and substantial evidence.<sup>4</sup> Second, the employee must submit sufficient evidence, generally only in the form of medical evidence, to establish a causal relationship between the employment incident and the alleged disability and/or condition for which compensation is claimed.<sup>5</sup> An employee may establish that the employment incident occurred as alleged, but fail to show that his or her disability and/or condition relate to the employment incident. As the Office did not dispute that the July 12, 1999 employment incident occurred at the time, place and in the manner, the remaining issue is whether the alleged injury was caused by the employment incident.

In order to satisfy his burden of proof, an employee must submit a physician's rationalized medical opinion on the issue of whether the alleged injury was caused by the employment incident.<sup>6</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

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<sup>1</sup> 5 U.S.C. §§ 8101-8193.

<sup>2</sup> *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

<sup>3</sup> *See Ronald K. White*, 37 ECAB 176, 178 (1985).

<sup>4</sup> *See John J. Carlone*, 41 ECAB 354 (1989).

<sup>5</sup> *Shirley A. Temple*, 48 ECAB 404, 407 (1997); *Elaine Pendleton*, *supra* note 2 at 1145.

<sup>6</sup> *Gary L. Fowler*, 45 ECAB 365, 371 (1994).

between the employee's alleged injury and the employment incident. The physician's opinion must be based on a complete factual and medical history of the employee, must be of reasonable certainty and must rationally explain the relationship between the diagnosed injury and the employment incident as alleged by the employee.<sup>7</sup>

While the opinion of a physician supporting causal relationship need not be one of absolute medical certainty, neither can such opinion be speculative or equivocal.<sup>8</sup> The fact that the etiology of a disease or condition is unknown or obscure does not shift the burden of proof to the Office to disprove an employment relationship. Neither does the absence of a known etiology relieve appellant of the burden of establishing a causal relationship, by the weight of the evidence, which includes an affirmative medical opinion based on the material facts with supporting rationale.<sup>9</sup>

In this case, the medical evidence of record fails to establish that appellant's condition is causally related to his employment. Dr. Wilson's July 16, 1999 reports, noting appellant's complaints and diagnosing acute gastroenteritis, did not include a rationalized medical opinion relating appellant's condition to his employment. Similarly, his July 20, 1999 notes did not adequately address the causal relationship issue.

Dr. Wilson opined that appellant's acute gastroenteritis might have been caused by escherichia coli, giardia, or other pathogen. His opinion, however, is speculative and equivocal and is, therefore, insufficient to establish causal relationship as it does not constitute an affirmative rationalized opinion relating appellant's condition to his employment. Appellant asserted that the cause of his condition was unknown to himself and his physician.

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<sup>7</sup> See *Shirley R. Haywood*, 48 ECAB 404, 407 (1997).

<sup>8</sup> *Judith L. Montage*, 48 ECAB 292, 294 (1997).

<sup>9</sup> *Id.* at 294-95.

The decision of the Office of Workers' Compensation Programs dated September 20, 1999 is hereby affirmed.

Dated, Washington, DC  
February 27, 2001

David S. Gerson  
Member

Willie T.C. Thomas  
Member

Michael E. Groom  
Alternate Member