

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of STEPHANIE A. EVANS and U.S. POSTAL SERVICE,
POST OFFICE, Harrisburg, PA

*Docket No. 00-1035; Submitted on the Record;
Issued February 8, 2001*

DECISION and ORDER

Before MICHAEL J. WALSH, MICHAEL E. GROOM,
PRISCILLA ANNE SCHWAB

The issues are: (1) whether appellant established that she sustained an occupational disease casually related to her employment; and, (2) whether the Office of Workers' Compensation Programs properly denied appellant's request for a review of the written record.

On April 5, 1999 appellant, then a 44-year-old casual clerk, filed an occupational disease claim alleging that as a result of sorting and handling a large volume of mail she developed pain in her right hand from her thumb to her wrist and at times up to her shoulder. She had stopped work on March 1, 1999.

In support of her claim, appellant submitted an Office form report dated April 7, 1999, which Dr. Herman Lawson, a Board-certified family practitioner, diagnosed tenosynovitis of the right thumb and right wrist and checked the "yes" box indicating that he believed her condition was caused or aggravated by an employment activity.

By letter dated April 30, 1999, the Office requested further information from appellant, including specifics pertaining to her injury as well as a physician's opinion supported by a medical explanation as to the cause of her condition and whether the physician believed that appellant's employment contributed to her condition. She was given 30 days to supply this information.

Appellant submitted a form report dated March 12, 1999, in which Dr. Lawson diagnosed severe tenosynovitis of the abductor pollicis tendon of the right thumb and tenosynovitis of the right wrist and advised that she should not perform any tasks involving fine manipulation, sorting mail or lifting with her right hand. In a report dated April 29, 1999, Dr. Lawson advised that appellant was still unable to use her right hand.

By letter dated May 3, 1999, the employing establishment submitted a statement dated April 26, 1999, which appellant's supervisor, Gary Evans, advised that he had no knowledge of appellant's injury and that she never complained of any symptoms.

By decision dated July 26, 1999, the Office denied appellant's claim on the grounds that she did not establish that her condition was caused by employment-related factors.

In a letter dated August 25, 1999 and postmarked August 26, 1999, appellant requested a review of the written record by a hearing representative of the Office. She submitted additional medical evidence.

By letter dated October 25, 1999, the Office denied appellant's request, noting that as she did not submit the request within 30 days after the July 26, 1999 decision, she was not entitled to an appeal as a matter of right. Additionally, the Office considered the matter in relation to the issue involved and denied appellant's request on the basis that the issue of whether her condition was causally related to employment factors could equally well be addressed through the reconsideration process.

The Board finds that appellant has not met her burden of proof in establishing that she sustained an employment-related injury.

An employee seeking benefits under the Federal Employees' Compensation Act¹ has the burden of establishing the essential elements of his or her claim,² including the fact that the individual is an "employee of the United States" within the meaning of the Act,³ that the claim was timely filed within the applicable time limitation period of the Act,⁴ 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.⁵ These are essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁶

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 the 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.⁷

¹ 5 U.S.C. §§ 8101-8193.

² See *Daniel R. Hickman*, 34 ECAB 1220 (1983); see also 20 C.F.R. § 10.115.

³ See *James A. Lynch*, 32 ECAB 2116 (1980); see also 5 U.S.C. § 8101(1).

⁴ 5 U.S.C. § 8122.

⁵ *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

⁶ *Delores C. Ellyett*, 41 ECAB 922 (1990); *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁷ *Charles E. Burke*, 47 ECAB 185 (1995).

Causal relationship is a medical issue⁸ and the medical evidence required to establish a causal relationship is rationalized medical evidence. Rationalized medical evidence is medical evidence that 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.⁹ Moreover, the mere fact that a disease or condition manifests itself during a period of employment nor the belief that the disease or condition was caused or aggravated by employment factors or incidents is sufficient to establish causal relationship.¹⁰

In this case, while appellant has submitted medical evidence establishing a diagnosis of tenosynovitis she has not submitted any evidence sufficient to establish that employment factors caused or contributed to her condition. Dr. Lawson indicated that he believed that appellant's condition was caused by employment activities, but he did not provide any rationalized medical evidence establishing causal relationship. The Board has held that a physician's form report which merely checks the box marked "yes" to indicate that the condition for which treatment is rendered is causally related to employment is of diminished probative value without any medical rationale.¹¹ Appellant, therefore, has not established that she sustained an employment-related injury.¹²

The Board also finds that the Office properly denied appellant's request for a review of the written record as untimely.

Any claimant dissatisfied with a decision of the Office shall be afforded an opportunity for a review of the written record which must be submitted, in writing, within 30 days of the decision for which a hearing is sought. A claimant is not entitled to a review of the written record if the request is not made within 30 days of the date of a decision for which a hearing is sought.¹³ The Office has discretion; however, to grant or deny a request that is made after this 30-day period.¹⁴ In such a case, the Office will determine whether a discretionary hearing should be granted and, if not, will so advise the claimant with reasons.¹⁵

⁸ *Mary J. Briggs*, 37 ECAB 578 (1986).

⁹ *Victor J. Woodhams*, *supra* note 6; *Charles E. Burke*, *supra* note 7; *Thomas L. Hogan*, 47 ECAB 323 (1996); *Kurt R. Ellis*, 47 ECAB 505 (1996); *Alberta S. Williamson*, 47 ECAB 569 (1996); *Joe L. Wilkerson*, 47 ECAB 604 (1996).

¹⁰ *Minnie L. Bryson*, 44 ECAB 713 (1995); *Froilan Negron Marrero*, 33 ECAB 796 (1982).

¹¹ *Barbara J. Williams*, 40 ECAB 649 (1989).

¹² The Board notes that appellant has submitted additional evidence to the Office subsequent to the July 26, 1999 decision. The Board cannot consider this evidence, however, as its review of the case is limited to the evidence that was before the Office at the time of its final decision. 20 C.F.R. § 501.2(c).

¹³ 20 C.F.R. § 10.616(a).

¹⁴ *Rita J. Bryan*, 51 ECAB ____ (Docket 99-2333, issued November 13, 2000); *Herbert C. Holley*, 33 ECAB 140

Appellant's request for a review of the written record was postmarked August 26, 1999, which is more than 30 days after the Office's July 26, 1999 decision. As such, appellant is not entitled to a review of the written record as a matter of right. Moreover, the Office considered whether to grant a discretionary review and correctly advised appellant that the issue of whether she established that she sustained an injury in the performance of duty causally related to employment factors could be equally well addressed by requesting reconsideration.¹⁶ Accordingly, the Board finds that the Office properly exercised its discretion in denying appellant's untimely request for a review of the written record.

The October 25 and July 26, 1999 decisions of the Office of Workers' Compensation Programs are hereby affirmed.

Dated, Washington, DC
February 8, 2001

Michael J. Walsh
Chairman

Michael E. Groom
Alternate Member

Priscilla Anne Schwab
Alternate Member

(1981).

¹⁵ *Rita J. Bryan*, *supra* note 14; *Rudolph Bermann*, 26 ECAB 354 (1975).

¹⁶ The Board has held that a denial of review on this basis is a proper exercise of the Office's discretion; *see Jeff Micono*, 39 ECAB 617 (1988).