

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of DOYCE R. AUSTIN and U.S. POSTAL SERVICE,  
POST OFFICE, Livingston, TX

*Docket No. 00-1037; Submitted on the Record;  
Issued February 14, 2001*

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DECISION and ORDER

Before DAVID S. GERSON, MICHAEL E. GROOM,  
PRISCILLA ANNE SCHWAB

The issue is whether appellant has met his burden of proof to establish that he sustained an injury causally related to his employment.

On February 17, 1999 appellant, then a 40-year-old rural carrier, filed a notice of traumatic injury alleging that he injured his left knee after stepping on a rock, twisting his ankle and falling as he was delivering parcels to a house. He did not stop work.

In support of his claim, appellant submitted a treatment note dated April 12, 1999 in which Dr. Dalton Heath, a Board-certified orthopedic surgeon, stated that appellant continued to have pain in his left knee and ordered a magnetic resonance imaging (MRI) scan to gather more information. In a duty status report dated April 23, 1999, Dr. Heath advised that appellant should stand for only two to three hours at a time and walk intermittently, but added that he could perform simple grasping and drive a motor vehicle on a regular basis.

By letter dated April 29, 1999, the Office of Workers' Compensation Programs requested additional information, including a physician's opinion supported by a medical explanation of the relationship between appellant's condition and his employment. Appellant was given 30 days to respond. He did not submit the requested information.

In a decision dated June 7, 1999, the Office denied appellant's claim on the grounds that he did not establish fact of injury. The Office found that appellant did not submit rationalized medical evidence to show that his knee condition was work related.

By letter dated July 3, 1999, appellant requested a review of the written record and submitted additional evidence. In a written statement dated May 19, 1999, he advised that he was getting out of his vehicle to deliver a parcel when he stepped on a rock, twisted his ankle and "slammed his knee into the ground." Appellant stated that his knee and leg were a little sore and stiff immediately after the incident and became worse the longer he was on his feet. In

further support of his claim, he submitted additional medical evidence, including a May 19, 1999 note in which Dr. Heath noted slight overall improvement in appellant's condition. In a June 28, 1999 note, Dr. Heath observed:

“Returns to clinic today with persistent discomfort in the same fashion that he had had before on his previous visits. His trouble is mainly in the region of the patellofemoral joint, worse with bent knee activities. It is unimproved despite modification of activities, physical therapy and anti-inflammatory medication. He has patellofemoral crepitus, tenderness about the lateral patellofemoral facet, otherwise exam is negative. Despite his history of some discomfort in his knee prior to his fall, the mechanism of injury that he had with his fall in February is one that would produce discomfort in the patellofemoral joint as a result of post traumatic chondromalacia. His symptoms and findings are consistent with a diagnosis of chondromalacia patella. Therefore, I would submit that his claim to have workers' compensation take some responsibility for coverage of this condition would be some merit [sic].”

In a statement dated October 11, 1999, appellant related that he had been complaining of symptoms from the date of the incident, and that the symptoms worsened overtime.

By a decision dated November 4, 1999, an Office hearing representative found that, while the February 17, 1999 incident occurred, the medical evidence did not establish a causal relationship between appellant's employment and his knee condition.

On February 24, 2000 appellant requested reconsideration and submitted additional evidence. By a decision dated March 27, 2000, the Office denied modification of the prior decision.

Initially, the Board notes that the March 27, 2000 decision was issued subsequent to January 3, 2000, the date that appellant filed an appeal with the Board. The Board and the Office may not have concurrent jurisdiction over the same issue in the same case. As the March 27, 2000 decision was a review of the prior decisions over which the Board has jurisdiction, the decision addressed the same issues that would be addressed by the Board on appeal. The March 27, 2000 Office decision is, therefore, null and void.<sup>1</sup>

The Board finds that this case is not in posture for decision.

An employee seeking benefits under the Federal Employees' Compensation Act<sup>2</sup> has the burden of establishing the essential elements of his claim<sup>3</sup> including the fact that the individual is an “employee of the United States” within the meaning of the Act<sup>4</sup>, that the claim was timely

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<sup>1</sup> *Douglas E. Billings*, 41 ECAB 880 (1990).

<sup>2</sup> 5 U.S.C. §§ 8101-8193.

<sup>3</sup> *See Daniel R. Hickman*, 34 ECAB 1220 (1983); *see also* 20 C.F.R. § 10.115.

<sup>4</sup> *See James A. Lynch*, 32 ECAB 2116 (1980); *see also* 5 U.S.C. § 8101(1).

filed within the applicable time limitation period of the Act<sup>5</sup>, 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>6</sup> These are essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.<sup>7</sup>

Causal relationship is a medical issue<sup>8</sup> 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.<sup>9</sup> 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.<sup>10</sup>

In this case, the Board finds that the June 28, 1999 report of Dr. Heath constitutes sufficient evidence in support of appellant's claim to require further development by the Office. Dr. Heath explained that the February 17, 1999 fall would produce discomfort in the patellofemoral joint as a result of post-traumatic chondromalacia. While this report lacks detailed medical rationale sufficient to meet appellant's burden of proof to establish that his left knee condition was aggravated by employment factors it does present a *prima facie* claim. Absent of medical evidence to the contrary, the report is sufficient to require further development of the record.<sup>11</sup>

It is well established that proceedings under the Act are not adversarial in nature.<sup>12</sup> While the claimant has the burden to establish entitlement to compensation, the Office shares responsibility in the development of the evidence.<sup>13</sup>

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<sup>5</sup> 5 U.S.C. § 8122.

<sup>6</sup> *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

<sup>7</sup> *Delores C. Ellyett*, 41 ECAB 922 (1990); *Victor J. Woodhams*, 41 ECAB 345 (1989).

<sup>8</sup> *Mary J. Briggs*, 37 ECAB 578 (1986).

<sup>9</sup> *Victor J. Woodhams*, *supra* note 7; *Charles E. Burke*, 47 ECAB 185 (1995); *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).

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

<sup>11</sup> *John J. Carlone*, 41 ECAB 354 (1989).

<sup>12</sup> *See, e.g., Walter A. Fundinger, Jr.*, 37 ECAB 200 (1985).

On remand the Office should compile a statement of accepted facts and refer appellant, together with the complete case record and questions to be answered, to a Board-certified specialist for a detailed opinion on the relationship of appellant's knee condition and employment. After such development as the Office deems necessary, a *de novo* decision shall be issued.

The decisions of the Office of Workers' Compensation Programs dated November 4 and June 7, 1999 are hereby vacated, and the case is remanded to the Office for proceedings consistent with this opinion.

Dated, Washington, DC  
February 14, 2001

David S. Gerson  
Member

Michael E. Groom  
Alternate Member

Priscilla Anne Schwab  
Alternate Member

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<sup>13</sup> See *Dorothy L. Sidwell*, 36 ECAB 699 (1985).