

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of PHILLIP M. MILLER and U.S. POSTAL SERVICE,
POST OFFICE, Lexington, KY

*Docket No. 00-1226; Submitted on the Record;
Issued July 27, 2001*

DECISION and ORDER

Before DAVID S. GERSON, A. PETER KANJORSKI,
PRISCILLA ANNE SCHWAB

The issue is whether appellant established that his arthritic right hip condition was caused by factors of his federal employment.

On May 24, 1998 appellant, then a 55-year-old letter carrier, filed an occupational disease claim alleging that working conditions during his 16-year career requiring walking a postal route an average of 6 to 8 miles a day while carrying a 20- to 30-pound mailbag aggravated his hip problem resulting in traumatic arthritis. He noted that he was first aware of his condition and that it was caused or aggravated by his employment on May 12, 1998. The employing establishment noted that appellant reported his condition on May 11, 1998 and that at that time he was assigned light duty.

In a report dated May 14, 1998, Dr. Jeffrey W. Parr, Board-certified in orthopedic surgery, stated that appellant had severe degenerative arthritis in his right hip and placed him on restricted duty.

By letter dated June 16, 1998, the Office of Workers' Compensation Programs advised appellant that the information he had submitted was insufficient to establish that he had sustained an injury as alleged. The Office requested that appellant submit medical records pertaining to his condition, including copies of all treatment notes and test results, and a comprehensive medical report from his treating physician which describes his symptoms and the doctor's opinion, with medical reasons, on the cause of his condition including an explanation if the doctor feels that his federal employment contributed to his arthritis.

By decision dated August 27, 1998, the Office denied appellant's claim on the grounds that the evidence of record failed to establish that he sustained an injury while in the performance of duty.

By letter dated September 24, 1998, appellant requested an oral hearing.

In a report dated March 31, 1999, Dr. William Wheeler, Board-certified in orthopedic surgery, noted a familiarity with appellant's history of injury noting that he related a work-related fall in 1985 which resulted in pain to his hip and groin, and has remained symptomatic since that time. Appellant related that he had an x-ray taken in 1998 and was told he had arthritis of the right hip. Based on appellant's history of injury and an examination that day, Dr. Wheeler stated that appellant had traumatic arthritis based on the 1985 work-related injury.

In a report dated July 19, 1999, Dr. Garnett J. Sweeney, Jr., Board-certified in orthopedic surgery, stated that he had examined appellant that day, and determined, based on a review of his medical history including a review of recent x-rays, that he had traumatic arthritis of the right hip. With respect to causation, Dr. Sweeney stated that, based on his history of injury, appellant's condition was caused by his 1985 traumatic event when he "did the splits in the snow."

A hearing was held on August 25, 1999, and the hearing representative issued a decision which was finalized on November 9, 1999, that affirmed the Office's August 27, 1998 decision. The hearing representative noted that, based on appellant's testimony and medical reports, Drs. Wheeler and Sweeney noted that appellant's condition was caused by a traumatic injury sustained in 1985. Given that appellant had filed a claim for occupational disease, the hearing representative found that appellant did not satisfy his burden of proof to establish that he had sustained an occupational disease while in the performance of duty. The hearing representative then noted that appellant's "right hip condition should be pursued under a traumatic injury claim for the 1985 injury."

On February 8, 2000 appellant filed the current appeal with the Board.¹

The Board finds that appellant did not meet his burden of proof to establish that his traumatic arthritis condition was caused by his federal employment.

An employee seeking benefits under the Federal Employees' Compensation Act² has the burden of establishing the essential elements of his claim, including the fact 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.³

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

¹ The record indicates that, on March 13, 2000, the Office denied review of appellant's February 22, 2000 request for reconsideration. As appellant filed his appeal with the Board on February 18, 2000, any decision of the Office issued after that date is moot. *Douglas E. Billings*, 41 ECAB 880 (1990).

² 5 U.S.C. § 8101.

³ *Elaine Pendleton*, 40 ECAB 1143 (1989).

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.⁴ The medical evidence required to establish a causal relationship, generally, is rationalized medical opinion evidence.⁵ Rationalized medical opinion evidence is medical evidence which 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,⁶ must be one of reasonable medical certainty,⁷ 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.⁸ The mere fact that a condition manifests itself during a period of employment does not raise an inference that there is a causal relationship between the two. Neither the fact that the condition became apparent during a period of employment, nor the belief of appellant that the condition was caused by or aggravated by employment conditions is sufficient to establish causal relation.⁹

In this case, the medical evidence of record consists of a March 31, 1999 report from Dr. Wheeler, Board-certified in orthopedic surgery, who stated that appellant had traumatic arthritis based on the 1985 work-related injury. Similarly, Dr. Sweeney, in a July 19, 1999 report, stated that appellant's condition was causally related to his 1985 traumatic injury and did not provide a rationalized medical opinion establishing that his condition was an occupational disease caused by his performance of duty. While both Drs. Wheeler and Sweeney noted that appellant's condition was causally related to the 1985 work-related injury, appellant filed a claim for occupational injury, not a traumatic disease. The question of whether a causal relationship exists between the condition and the employment is medical in nature and can be established generally only by rationalized medical opinion.¹⁰ As none of appellant's medical reports are sufficiently rationalized to support a causal relationship between the work factors identified by appellant and his diagnosed traumatic right hip arthritis condition, the Board finds appellant has not met his burden of proof to establish that he sustained an occupational disease in the performance of duty as alleged.

⁴ *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

⁵ The Board has held that in certain cases, where the causal connection is so obvious, expert medical testimony may be dispensed with to establish a claim; see *Naomi A. Lilly*, 10 ECAB 560, 572-73 (1959). The instant case, however, is not a case of obvious causal connection.

⁶ *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

⁷ *Morris Scanlon*, 11 ECAB 384-85 (1960).

⁸ *William E. Enright*, 31 ECAB 426, 430 (1980).

⁹ *Manuel Garcia*, 37 ECAB 767, 773 (1986); *Juanita C. Rogers*, 34 ECAB 544, 546 (1983).

¹⁰ *Ruth Seuell*, 48 ECAB 188 (1996).

The decision of the Office of Workers' Compensation Programs dated November 9, 1999 is hereby affirmed.

Dated, Washington, DC
July 27, 2001

David S. Gerson
Member

A. Peter Kanjorski
Alternate Member

Priscilla Anne Schwab
Alternate Member