

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of MARY A. AMBROSE and U.S. POSTAL SERVICE,
POST OFFICE, New Orleans, LA

*Docket No. 00-2449; Submitted on the Record;
Issued June 8, 2001*

DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,
BRADLEY T. KNOTT

The issue is whether appellant has met her burden of proof in establishing that her cervical and lower back conditions were causally related to factors of her employment.

On February 26, 1999 appellant, then a 44-year-old flat-sorter machine operator, filed a claim for lumbar strain, shoulder strain, lumbar spondylosis, lumbar facet syndrome and subluxations in the lumbar and cervical vertebra. She indicated that she first became aware her condition was related to her employment on June 17, 1996. The employing establishment noted that appellant first sought medical care on June 17, 1996. In an accompanying statement, she gave a detailed explanation of the work she had performed at the employing establishment over the years, including work as a letter-sorting machine operator, a flat-sorting machine operator, a flat clerk and work at the pouching table. Appellant described the duties she performed in each job, which included repetitive motions of her arms, lifting trays of mail, sorting mail into mailbags, pushing heavy carts of mail and lifting mailbags. She indicated that her pain was predominately in the upper part of her back and left shoulder, extending down to her arm. Appellant also reported pain in her lower back, extending down the back of her left leg. She noted that she had been seeing a chiropractor since June 1996. Appellant commented that the back pain gradually became worse in the period from October through December 1997. She stated that she began to experience severe, excruciating back pain on February 14, 1998.

In a July 20, 1999 decision, the Office of Workers' Compensation Programs denied appellant's claim on the grounds that she had not met her burden of proof in establishing that her condition was causally related to her employment.

Appellant requested reconsideration. In a November 15, 1999 decision, the Office denied her request for reconsideration on the grounds that the new arguments and medical evidence she submitted were irrelevant and therefore insufficient to warrant review of its prior decision.

The Board finds that appellant has not met her burden of proof in establishing that her back and cervical conditions are causally related to her employment.

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;¹ (2) a factual statement identifying the employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition;² and (3) medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant.³ The medical evidence required to establish causal relationship, generally, is rationalized medical opinion evidence. 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,⁴ must be one of reasonable medical certainty⁵ 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.⁶

In a June 17, 1996 note, appellant was recorded as giving a history of lifting buckets of mail, weighing 5 to 30 pounds, for at least 10 years. It was indicated that appellant had a history of back pain since 1994.

In a July 15, 1998 report, Dr. John L. Heard, a Board-certified radiologist, reported that a magnetic resonance imaging (MRI) scan of the cervical spine showed moderate cervical spondylosis, subligamentous focal disc protrusions at C3-4, C4-5 and C5-6, resulting in minimal spinal stenosis, a slightly larger disc protrusion at C6-7, resulting in mild thecal sac encroachment and slight osseous overgrowth of the posterior lateral bony margin at the C5-6 level, resulting in mild right C5-6 neural foraminal encroachment.

In a November 4, 1998 report, Dr. Douglas A. Swift, Board-certified in occupational medicine, performed a fitness-for-duty examination for the employing establishment. He noted that appellant complained of upper back pain extending across both shoulders and down the left arm with hypesthesia. Dr. Swift also related that appellant complained of low back pain radiating into the left thigh. He reviewed appellant's x-rays and MRI scans and performed various tests. Dr. Swift concluded that appellant had cervical and lumbar degenerative disc disease. He stated that appellant should be restricted to a sedentary job with a maximum lifting of 10 pounds. In a January 20, 1999 report, Dr. Swift indicated that there was no change in appellant's status.

¹ See *Ronald K. White*, 37 ECAB 176, 178 (1985).

² See *Walter D. Morehead*, 31 ECAB 188, 194 (1979).

³ See generally *Lloyd C. Wiggs*, 32 ECAB 1023, 1029 (1981).

⁴ *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

⁵ See *Morris Scanlon*, 11 ECAB 384, 385 (1960).

⁶ See *William E. Enright*, 31 ECAB 426, 430 (1980).

In a December 10, 1998 report, Dr. Alain F. Cracco, a Board-certified orthopedic surgeon, noted that he had treated appellant previously for a knee problem. He indicated that appellant had a June 17, 1996 appointment which she had failed to keep. Dr. Cracco noted that he again saw her on January 20, 1998 with a two- to three-week history of back pain. He commented that appellant did not report exacerbation of back pain due to any specific activity but she related that she was lifting buckets of mail weighing 25 to 35 pounds. Dr. Cracco discussed his treatment of appellant and diagnosed cervical spondylosis.

In a March 17, 1999 report, Dr. James C. Butler, a Board-certified orthopedic surgeon, reported that appellant complained of severe neck and arm pain, radiating down the left arm. He indicated that an electromyogram showed left cervical radiculopathy. Dr. Butler related that appellant had been switched to working at night and complained of fatigue because her symptoms had increased. He recommended that appellant work daylight hours.

In a March 30, 1999 report, Dr. Sofjan Lamid, a Board-certified physiatrist, stated appellant was injured at work. He noted that she suffered from neck pain, arm pain related to cervical radiculopathy and low back pain due to lumbar spondylosis and lumbar facet syndrome. Dr. Lamid indicated that working at night caused appellant's pain and exacerbated her condition. He recommended that she work daytime hours. In an April 24, 1999 report, Dr. Lamid stated that appellant had a history of sustaining an injury on June 17, 1996 when she picked up buckets of mail, weighing 20 to 45 pounds, carrying approximately 300 buckets a day. He indicated that appellant immediately experienced pain in her neck, left shoulder and back. Dr. Lamid reviewed appellant's medical history and noted that he first examined her March 13, 1999. He reported that appellant had a restricted cervical range of motion. Dr. Lamid stated neurological examination showed decreased pinprick sensation in the left arm along the C5 and C6 distribution. He also found decreased pinprick sensation along the L3 and L4 dermatomes in the left leg. Dr. Lamid diagnosed cervical spondylosis, cervical radiculopathy of C5 and C6, lumbar spondylosis, lumbar facet syndrome and lumbar radiculopathy at L3 and L4 and bulging of cervical discs. He stated that appellant was injured at work on June 17, 1996 which caused aggravation of cervical and lumbar spondylosis. Dr. Lamid concluded that the supposed employment injury also caused cervical radiculopathy, lumbar radiculopathy and bulging of cervical discs. He concluded that there was a causal relationship between the employment injury and the aggravation of appellant's underlying conditions.

Dr. Lamid, therefore, was the only physician to address the issue of causal relationship between appellant's work and her physical conditions. However, he operated with a history that appellant sustained a traumatic injury on June 17, 1996. Other evidence in the record shows that appellant became aware her condition was related to her employment on June 17, 1996 and that she saw a chiropractor at that time due to back pain. Otherwise, appellant had consistently stated that her back condition was due to years of work. Dr. Lamid's report, therefore, rests on an inaccurate history of injury and, as a result, has little probative value. Furthermore, he did not present a detailed explanation on the physical mechanism by which appellant's employment duties caused her various cervical and lumbar conditions. Dr. Lamid's report, therefore, is insufficient to meet appellant's burden of proof.

The decisions of the Office of Workers' Compensation Programs, dated November 15 and July 20, 1999, are hereby affirmed.

Dated, Washington, DC
June 8, 2001

Michael J. Walsh
Chairman

David S. Gerson
Member

Bradley T. Knott
Alternate Member