

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of SUSAN K. YOUNG and U.S. POSTAL SERVICE,
POST OFFICE, South Bend, IN

*Docket No. 00-2550; Submitted on the Record;
Issued June 18, 2001*

DECISION and ORDER

Before MICHAEL J. WALSH, BRADLEY T. KNOTT,
A. PETER KANJORSKI

The issue is whether appellant's disability on August 14, 1999 was causally related to her June 3, 1999 employment injury.

On June 3, 1999 appellant, then a 44-year-old mailhandler, sustained an injury at work when an all-purpose container (APC) struck her and wedged her between two APCs. She was diagnosed the following day with contusion to the left shoulder, medial elbow pain and paresthesia with left radial distribution. Appellant was later diagnosed with a contusion to the anterior chest wall. She lost no time from work and returned to limited duty. The Office of Workers' Compensation Programs accepted her claim for contusion to the left shoulder and chest wall.

On December 4, 1999 appellant filed a claim asserting that she sustained a recurrence on November 7, 1999. She indicated that she did not stop work but did go to the emergency room because she was having acute pain. Asked to describe "all injuries and illnesses that you suffered between the date you returned to work following the original injury and the date of recurrence," appellant stated that on August 14, 1999 the medication she took, as prescribed by her doctor for the June 3, 1999 employment injury, made her ill.

The Office accepted appellant's claim of recurrence for medical treatment only, as appellant claimed no disability for work. The Office also expanded its acceptance of the June 3, 1999 employment injury to include the conditions of cervical and thoracic strain.

On August 24, 1999 appellant filed a claim asserting that she sustained a recurrence of disability on August 14, 1999 as a result of her June 3, 1999 employment injury. Asked to describe the circumstances of the recurrence, appellant wrote: "Extreme pain in left shoulder, neck, lower back (left), pain and numbness in left hand and foot. Took medication, when I woke up I was extremely sick and felt very dizzy -- out of it! It was hurting the night prior at work due to the work I was doing. There is no way to weigh the trays of mail and I am sure some weighed over 25 pounds." Appellant's supervisor commented: "Employee stated after taking medication

she was extremely sick and dizzy. She said she was in no condition to drive or work.” Appellant stopped work on August 14, 1999 for one day and returned to work on August 15, 1999.

The Office requested additional information, including a detailed narrative medical report containing a well-reasoned opinion explaining how the claimed condition was related to appellant’s employment.

On November 4, 1999 appellant’s union representative advised the Office that appellant called in sick on August 14, 1999 due to medication. Upon reporting to work, however, she was given a Form CA-2a, Claim for Recurrence of Disability. In a statement dated November 8, 1999, appellant explained that she was doing her normal limited duties on August 14, 1999. She had a lot of pain that evening but continued her shift: “After I came home, I took medication the doctor prescribed and went to bed. On awakening, I felt ill. I had a reaction to the medication. I did not feel it would be safe for me to drive, so I called in sick, not injured.” Appellant stated that her June 3, 1999 injuries continued to be a problem “pain wise.” She had pain everyday:

“There were times after physical therapy that I had severe pain and had to take medication for the pain as ordered by the physician. That medication was not the same as the one prescribed for me prior to August 14, 1999. I was given a new type of muscle relaxer and had not tried it until August 14, 1999. I filled out the CA-2a only on management’s request. I was not claiming a new injury, but just experiencing pain from the existing injury of June 3, 1999. I never saw a doctor for the August 14, 1999 sick leave usage.”

In a decision dated December 7, 1999, the Office denied appellant’s claim on the grounds that the evidence failed to establish a causal relationship between the claimed condition on August 14, 1999 and the employment.

Appellant requested reconsideration and submitted medical records, including an August 10, 1999 report from her attending physician, Dr. Aashish A. Deshpande, a physiatrist. Noting that appellant was continuing to show signs primarily of a musculoskeletal injury, Dr. Deshpande reported:

“I think the medications [appellant] is on are fairly appropriate for the present time, but I have made a change from Skelaxin to Flexeril. The Skelaxin was found by [appellant] to be very strong and she could not use this at work. I mentioned to her that the Flexeril, though being a stronger medicine, would be appropriate to use mainly at bedtime and the like and I have given her a small amount of medication to attempt this.”

In a decision dated May 2, 2000, the Office reviewed the merits of appellant’s claim and denied modification of its prior decision.

The Board finds that the medical evidence fails to establish that appellant’s disability on August 14, 1999 was causally related to her June 3, 1999 employment injury.

A claimant seeking benefits under the Federal Employees' Compensation Act¹ has the burden of proof to establish the essential elements of her claim by the weight of the evidence,² including that she sustained an injury in the performance of duty and that any specific condition or disability for work for which she claims compensation is causally related to that employment injury.³

Appellant sustained an injury in the performance of duty on June 3, 1999. Because she seeks compensation for disability on August 14, 1999, she has the burden of proof to establish that her disability that day was causally related to her June 3, 1999 employment injury.

The evidence generally required to establish causal relationship is rationalized medical opinion evidence. The claimant must submit a rationalized medical opinion that supports a causal connection between her disability and the employment injury. The medical opinion must be based on a complete factual and medical background with an accurate history of the claimant's employment injury and must explain from a medical perspective how the disability is related to the injury.⁴

The Board has held that if treatment is performed as a result of an employment injury and causes further impairment, this would constitute a consequential injury and is compensable.⁵ Appellant's claim is that her disability on August 14, 1999 was a result of new medication prescribed for her June 3, 1999 employment injury. The record shows that Dr. Deshpande in fact prescribed a stronger muscle relaxant for appellant on August 10, 1999. What is missing from the medical evidence is an opinion from Dr. Deshpande confirming that he prescribed this stronger medication for the treatment of appellant's June 3, 1999 employment injury and explaining how the medication caused appellant to miss work on August 14, 1999. This medical opinion is necessary to establish the element of causal relationship. Without it, appellant has not met her burden of proof.

¹ 5 U.S.C. §§ 8101-8193.

² *Nathaniel Milton*, 37 ECAB 712 (1986); *Joseph M. Whelan*, 20 ECAB 55 (1968) and cases cited therein.

³ *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

⁴ *John A. Ceresoli, Sr.*, 40 ECAB 305 (1988).

⁵ *Kathryn Haggerty*, 45 ECAB 383 (1994). The Board has also held that disability resulting from authorized treatment is compensable even though the treatment is not for an employment-related condition. *Rose M. Thompson*, 33 ECAB 1947 (1982) (any disability resulting from surgery authorized by the Office is compensable).

The May 2, 2000 and December 7, 1999 decisions of the Office of Workers' Compensation Programs are affirmed.

Dated, Washington, DC
June 18, 2001

Michael J. Walsh
Chairman

Bradley T. Knott
Alternate Member

A. Peter Kanjorski
Alternate Member