

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of DEBRA A. BOOKSER and FEDERAL EMERGENCY MANAGEMENT
AGENCY, Denton, TX

*Docket No. 99-2278; Submitted on the Record;
Issued March 20, 2001*

DECISION and ORDER

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

The issue is whether appellant sustained hemochromatosis or right wrist drop (radial nerve palsy) causally related to factors of her employment.

The Board has duly reviewed the record in this appeal and finds that appellant has failed to establish that she sustained hemochromatosis or right wrist drop causally related to factors of 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; (2) a factual statement identifying 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 diagnosed condition is causally related to the employment factors identified by the claimant. The medical opinion 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.¹

On November 23, 1998 appellant, then a 44-year-old human services specialist, filed an occupational disease claim alleging that she sustained a medical condition causally related to exposure to chemicals at work. She indicated that she first became aware of her condition on July 13, 1998 when she went outside to smoke and was exposed to a pesticide applied to the grounds of the employing establishment.

¹ See Arturo A. Adame, 49 ECAB 421, 424-25 (1998).

By decision dated May 27, 1999, the Office of Workers' Compensation Programs accepted as work related an aggravation of appellant's preexisting porphyria.² The Office stated that it did not accept as work related the conditions of right wrist drop and hemochromatosis.³

In notes dated November 16, 1998, Dr. Henrik Westergaard, a Board-certified internist specializing in gastroenterology, related that appellant had complaints of abdominal pain and diarrhea and had been diagnosed with porphyria nine years earlier. He stated that on July 13, 1998 she developed a rash all over her body. In notes dated March 8, 1999, Dr. Westergaard provided findings on examination and diagnosed hematochromatosis.⁴ However, he did not opine as to the cause of appellant's hematochromatosis and therefore this report does not establish that this condition was causally related to factors of her employment.

In a report dated November 30, 1998, Dr. Miguel Trevino, a physician who indicated that he specialized in occupational medicine, related that he visited appellant in her home where she complained of a skin rash, headaches, nausea, vomiting, severe abdominal pain, general malaise, weakness and swelling of her face. He noted that she had seen local physicians for evaluation and treatment with no relief. Dr. Trevino stated that, after talking to appellant, reading copies of test results, and researching the toxicological data associated with the chemicals used to fumigate appellant's building, he believed that her symptoms were related to her chemical exposure at work. However, he did not indicate that he actually examined appellant, he did not provide a diagnosis, and he did not provide a rationalized medical opinion explaining how appellant's condition was causally related to exposure to chemicals at work. Therefore, his opinion that appellant's symptoms were work related to exposure to chemicals is of limited probative value and is not sufficient to establish that her hemochromatosis or right wrist drop were employment related.

In a report dated March 1, 1999, Dr. Dion F. Graybeal, a neurologist, provided a history of appellant's condition and findings on examination. He diagnosed clinical right radial nerve palsy (right wrist drop), episodic spells of peripheral numbness and paresthesias, and probable porphyria. He stated that the right radial nerve palsy might be related to the underlying porphyria. However, he failed to provide any medical rationale explaining how appellant's right radial nerve palsy was causally related to factors of her employment. Therefore, this report is not sufficient to discharge appellant's burden of proof.

In a report dated May 26, 1999, Dr. Thomas L. Kurt, a Board-certified specialist in preventive medicine and an Office referral physician, provided a history of appellant's condition, a summary of the factual and medical evidence, the results of testing, and detailed findings on

² Porphyria is a metabolic condition characterized by a marked increase in the formation and excretion of porphyrin compounds; *see Dorland's Illustrated Medical Dictionary* (27th ed. 1988) at 1338.

³ The record contains evidence which was submitted subsequent to the issuance of the Office's May 27, 1999 decision. The Board has no jurisdiction to consider this evidence for the first time on appeal; *see* 20 C.F.R. § 501.2(c); *Robert D. Clark*, 48 ECAB 422, 428 (1997).

⁴ Hematochromatosis, hemochromatosis, and hemachromatosis are names for a disorder causing tissue damage and dysfunction of the liver, pancreas, heart and pituitary; *see Dorland's Illustrated Medical Dictionary*, *supra* note 2 at 740, 741 and 747.

examination. He diagnosed porphyria, hemochromatosis, and right wrist drop. Dr. Kurt stated that hemochromatosis was considered a condition of genetic inheritance unrelated to pesticide exposure and wrist drop was not known to be caused or aggravated by pesticide exposure but that the porphyria was likely aggravated by appellant's pesticide exposure. As Dr. Kurt did not opine that appellant's right wrist drop and hemochromatosis were causally related to her employment, this report is not sufficient to meet her burden of proof.

As appellant failed to provide rationalized medical evidence establishing that her hemochromatosis and right wrist drop were causally related to factors of her employment, the Office properly denied her claim for these conditions.

The May 27, 1999 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, DC
March 20, 2001

David S. Gerson
Member

Michael E. Groom
Alternate Member

Priscilla Anne Schwab
Alternate Member