

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of THOMAS KACKENMEISTER and DEPARTMENT OF JUSTICE, BUREAU OF PRISONS, FEDERAL CORRECTIONAL INSTITUTION, Loretto, PA

*Docket No. 00-1004; Submitted on the Record;
Issued September 5, 2001*

DECISION and ORDER

Before DAVID S. GERSON, BRADLEY T. KNOTT,
A. PETER KANJORSKI

The issue is whether appellant has met his burden of proof in establishing that he sustained hepatitis C causally related to factors of his federal employment.

On September 21, 1999 appellant, then a 45-year-old correctional supervisor filed a notice of occupational disease and claim for compensation (Form CA-2), alleging that he contracted hepatitis C due to factors of his federal employment. Appellant stated that he became aware of his disease in November 1996, and related the condition to factors of his federal employment because of the "high rate in work (inmates) environment." (sic) On the reverse of the form, appellant's supervisor indicated that appellant first sought medical treatment in November 1996, and that the medical reports revealed that appellant was disabled from work.

By letter dated September 30, 1999, the Office of Workers' Compensation Programs advised appellant that the information submitted in his claim was not sufficient to determine whether appellant was eligible for benefits under the Federal Employees' Compensation Act.¹ The Office requested that appellant "describe in detail the employment-related exposure or contact which you believe contributed to your condition," and any possible exposure outside of his federal employment. The Office further requested that appellant submit a rationalized medical report showing how factors of his federal employment contributed to his condition.

Appellant submitted several medical reports and letters from his treating physicians, including a letter from Dr. Ralph McKibbin, a Board-certified internist, dated November 11, 1996, in which he noted an elevation in liver function tests. In a follow-up letter dated December 9, 1996, Dr. McKibbin noted persistent elevations of appellant's liver function tests. He scheduled appellant for a percutaneous liver biopsy. By letter dated January 20, 1997, Dr. McKibbin diagnosed as having hepatitis C.

¹ 5 U.S.C. §§ 8101-8193.

Appellant continued to see Dr. McKibbin, who prescribed treatment for hepatitis C, including an Intron-A protocol in conjunction with Ribivirin.

By letter dated September 8, 1998, Dr. McKibbin scheduled appellant for hepatitis C quantitative polymerase chain reaction (PCR) test. By letter dated October 7, 1998, Dr. McKibbin noted that the PCR test revealed persistent virus.

On April 9, 1998 appellant underwent a liver sonogram, which was performed by Dr. Richard F. Hawkins, a diagnostic radiologist. The sonogram was negative for a gross hepatic lesion, though Dr. Hawkins noted that the examination was extremely limited due to both the patient's size and bowel gas overlying the liver.

By decision dated December 17, 1999, the Office denied appellant's claim. The Office found that the medical evidence established that appellant suffered from hepatitis C, but did not establish that appellant contracted the disease in the performance of his federal employment.

The Board finds that appellant has not met his burden of proof in establishing that he sustained hepatitis C causally related to factors of his federal employment.

An employee seeking benefits under the Act has the burden of establishing the essential elements of his or her claim including the fact that the individual is an "employee of the United States" within the meaning of the Act, that the claim was timely filed within the applicable time limitation period of the Act, 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.² These are essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.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 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 employment factors identified by 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.

In the instant case, appellant has attributed the occurrence of his hepatitis C to exposure in his occupation as a correctional supervisor in the course of his federal employment. The medical evidence from appellant's attending physician, however, is not sufficient to establish a causal relationship between the claimed condition and his federal employment. As noted above, the medical evidence must contain an opinion with supporting rationale. Appellant submitted multiple reports from Dr. McKibbin, in which the doctor found that appellant was disabled from

² *Elaine Pendleton*, 40 ECAB 1143 (1989).

³ *Daniel J. Overfield*, 42 ECAB 718, 721 (1991); *Victor J. Woodhams*, 41 ECAB 345 (1989).

hepatitis, but did not address the causation of the disease. Since Dr. McKibbin did not provide a medical rationale explaining why or how appellant's hepatitis C was contracted while in the performance of his assigned duties, his reports are insufficient to establish appellant's claim. As appellant has failed to submit a rationalized medical report based on a complete factual and medical background explaining why his hepatitis C was contracted in the performance of his federal employment, the Office properly denied his claim.

The decision of the Office of Workers' Compensation Programs dated December 17, 1999 is hereby affirmed.

Dated, Washington, DC
September 5, 2001

David S. Gerson
Member

Bradley T. Knott
Alternate Member

A. Peter Kanjorski
Alternate Member