U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of DANIEL BENZ and U.S. POSTAL SERVICE, MID-ISLAND PROCESSING & DISTRIBUTION CENTER, Melville, NY

Docket No. 02-23; Submitted on the Record;
Issued April 11, 2002

DECISION and ORDER

Before ALEC J. KOROMILAS, DAVID S. GERSON,
MICHAEL E. GROOM

The issue is whether appellant has established that he sustained a back injury causally related to factors of his federal employment.

The Board has reviewed the case record and finds that this case is not in posture for decision.

On November 4, 1999 appellant, then a 23-year-old mail processor, filed an occupational disease claim alleging that he experienced low back pain due to constant bending and lifting while in the performance of duty. Appellant's claim was accompanied by factual and medical evidence.

In a February 1, 2000 decision, the Office of Workers' Compensation Programs found the evidence of record insufficient to establish that appellant sustained a back injury causally related to factors of his federal employment. By letter dated February 25, 2000, appellant requested an oral hearing before an Office representative.

By decision signed September 18, 2000 and finalized on September 21, 2000, the hearing representative affirmed the Office's decision.

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 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. 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, 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]

The only medical evidence of record that addressed a causal relationship between appellant's back injury and factors of his employment consists of a undated report and an August 5, 2000 report of Dr. Ronald A. DeCesare, a chiropractor. In the undated report, Dr. DeCesare noted appellant's complaint of low back pain extending into his legs, but not below his knees. He further noted a history of injury as provided by appellant that he experienced the onset of pain after performing the normal duties of his occupation, which consisted of repetitive twisting, bending and lifting 25-pound trays. Dr. DeCesare described his findings on physical and x-ray examination and diagnosed facet impingement syndrome, lumbar sprain/strain and lumbar radiculopathy. Dr. DeCesare stated "it is my opinion that based on [appellant's] history, the injuries described are causally work related."

In his August 5, 2000 report, Dr. DeCesare reiterated appellant's complaints and history of his back injury. He stated:

> "Bio-mechanically the repetitive motion stresses from twisting and bending combined with the dynamic load from the 25-pound trays were enough to cause subluxation and displacement of the lumbar vertebrae. The x-rays taken on November 2, 1999 revealed facet imbrication of the lower lumbar vertebrae which certainly is a possible result of the aforementioned s[c]enario."

Dr. DeCesare diagnosed lumbar vertebral subluxation and lumbar radiculopathy. He opined that "If [appellant's] history of how the injury developed is accurate, then I remain of the opinion that the low back condition is causally related to work."

Under section 8101(2) of the Federal Employees' Compensation Act,[2] "[t]he term 'physician' includes chiropractors only to the extent that their reimbursable services are limited to treatment consisting of manual manipulation of the spine to correct a subluxation of the spine as demonstrated by x-ray to exist and subject to regulation by the Secretary."[3] If a chiropractor's reports are not based on a diagnosis of subluxation as demonstrated by x-ray to exist, they do not constitute competent medical evidence to support a claim for compensation.[4]

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[1] *Victor J. Woodhams*, 41 ECAB 345 (1989).

[2] 5 U.S.C. §§ 8101-8193.

[3] 5 U.S.C. § 8101(2); *see also* 20 C.F.R. § 10.400(a); *Robert J. McLennan*, 41 ECAB 599 (1990); *Robert F. Hamilton*, 41 ECAB 431 (1990).

[4] *Loras C. Dignann*, 34 ECAB 1049 (1983).

In his August 5, 2000 report, Dr. DeCesare indicated that x-rays were taken on November 2, 1999 and he provided a diagnosis of lumbar vertebral subluxation. Thus, he qualifies as a physician under the Act.[5]

Dr. DeCesare's opinion that appellant's work duties, which included repetitive twisting, bending and lifting 25-pound trays, caused his back condition is not sufficiently rationalized. He failed to provide any medical rationale explaining how or why these duties caused or contributed to appellant's back condition. For this reason the Board finds that the medical evidence is of diminished probative value and is insufficient to sustain appellant's burden of proof.

The September 21, 2000 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, DC
April 11, 2002

Alec J. Koromilas
Member

David S. Gerson
Alternate Member

Michael E. Groom
Alternate Member

[5] *See* 20 C.F.R. § 10.311(c).