

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of CHARLES L. NICHOLS, SR. and U.S. POSTAL SERVICE,  
POST OFFICE, Altus, OK

*Docket No. 02-1692; Submitted on the Record;  
Issued December 26, 2002*

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DECISION and ORDER

Before ALEC J. KOROMILAS, COLLEEN DUFFY KIKO,  
A. PETER KANJORSKI

The issue is whether appellant established that his back condition is causally related to factors of his employment.

On March 22, 2002 appellant, then a 50-year-old letter carrier, filed a notice of occupational disease (Form CA-2), alleging that his degenerative disc disorder was aggravated by his walking his mail route and carrying the mailbag on his shoulders for approximately six hours a day.

In support of his claim, appellant submitted various physical therapy reports dated January 11 and 21, 2002 and work disability certificates by Dr. Stephen K. Ofori, an attending Board-certified neurological surgeon, and Dr. William J. Pettit, an attending Board-certified family practitioner. In his disability certificate dated March 13, 2002, Dr. Pettit diagnosed lower back pain and recommended light-duty work. Dr. Ofori, in disability certificates dated January 22, February 20 and March 30, 2002, diagnosed low back pain.

In a December 14, 2001 report, Dr. Ofori diagnosed lumbar degenerative disc disease and recommended physical therapy.

Dr. Ofori, in reports noting work tolerance limitations dated January 21 and April 5, 2002, diagnosed middle back pain.

By letter dated April 11, 2002, the Office of Workers' Compensation Programs informed appellant that the evidence was insufficient to support his claim and advised him as to the type of information required to support his claim.

In a decision dated May 16, 2002, the Office denied appellant's claim on the grounds that he had not established that his condition was caused by factors of his employment.

The Board finds that appellant has not established that his degenerative disc disorder was aggravated or caused by employment factors.

An employee seeking benefits under the Federal Employees' Compensation Act<sup>1</sup> has the burden of establishing the essential elements of his claim, including the fact 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.<sup>2</sup>

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 the 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.<sup>3</sup> The medical evidence required to establish a causal relationship, generally, is rationalized medical opinion evidence.<sup>4</sup>

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,<sup>5</sup> must be one of reasonable medical certainty<sup>6</sup> 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.<sup>7</sup>

The mere fact that a condition manifests itself during a period of employment does not raise an inference that there is a causal relationship between the two. Neither the fact that the condition became apparent during a period of employment, nor the belief of the employee that

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<sup>1</sup> 5 U.S.C. §§ 8101-8193

<sup>2</sup> *Allen C. Hundley*, 53 ECAB \_\_\_\_ (Docket No. 02-107, issued May 17, 2002).

<sup>3</sup> *Matilda R. Wyatt*, 52 ECAB \_\_\_\_ (Docket No. 00-1564, issued July 6, 2001); *Jerry D. Osterman*, 46 ECAB 500 (1995); *see also Victor J. Woodhams*, 41 ECAB 345 (1989).

<sup>4</sup> The Board has held that, in certain cases, where the causal connection is so obvious, expert medical testimony may be dispensed with to establish a claim; *see Naomi A. Lilly*, 10 ECAB 560 (1959). The instant case, however, is not a case of obvious causal connection.

<sup>5</sup> *William Nimitz, Jr.*, 30 ECAB 567 (1979).

<sup>6</sup> *See Morris Scanlon*, 11 ECAB 384 (1960).

<sup>7</sup> *Gloria J. McPherson*, 51 ECAB 441 (2000); *Jerry D. Osterman*, *supra* note 3.

the condition was caused or aggravated by an employment incident or factors, is sufficient to establish causal relationship.<sup>8</sup>

In this case, appellant has not submitted any medical evidence demonstrating that the aggravation, acceleration or precipitation of his medical conditions resulted from performing work-related activities. Neither Dr. Ofori nor Dr. Pettit offered any opinion as to whether appellant's problems with his back and degenerative disc disease are causally related to appellant's work-related activities.

As appellant has not submitted rationalized medical evidence to substantiate that his medical conditions are due to or aggravated by factors of his federal employment, he has not met his burden of proof.

The May 16, 2002 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC  
December 26, 2002

Alec J. Koromilas  
Member

Colleen Duffy Kiko  
Member

A. Peter Kanjorski  
Alternate Member

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<sup>8</sup> *Joseph P. Gulla*, 36 ECAB 516 (1986).