

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of PATRICIA A. MOORE and U.S. POSTAL SERVICE,
WHITE STATION POST OFFICE, Memphis, TN

*Docket No. 01-1159; Submitted on the Record;
Issued January 3, 2002*

DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS,
BRADLEY T. KNOTT

The issue is whether appellant has met her burden of proof to establish that she has systemic lupus erythematosus causally related to employment factors.

On December 3, 1998 appellant, then a 35-year-old letter carrier, filed an occupational disease claim, alleging that exposure to weather elements in the performance of her work caused systemic lupus erythematosus (lupus). She had stopped work on October 29, 1998. By letter dated January 20, 1999, the Office of Workers' Compensation Programs informed appellant of the type of evidence needed to support her claim. By decision dated February 23, 1999, the Office denied the claim, noting that appellant failed to submit the requested information. On March 24, 1999 appellant requested a review of the written record before the Branch of Hearings and Review and submitted medical evidence, which included reports from her treating rheumatologist, Dr. Ramesh C. Gupta, who diagnosed lupus. By decision dated July 20, 1999, an Office hearing representative remanded the case to the Office for further development.

The Office then referred appellant to Dr. Michael A. Cremer, who is Board-certified in internal medicine and rheumatology, for a second opinion evaluation. By decision dated October 26, 1999, the Office denied the claim, crediting the opinion of Dr. Cremer, who advised that appellant did not have lupus. On November 16, 1999 appellant again requested a review of the written record and, in a March 16, 2000 decision, an Office hearing representative found that a conflict in the medical evidence existed between the opinions of appellant's treating physician, Dr. Gupta and Dr. Cremer, who provided a second opinion evaluation for the Office. The Office then referred appellant, along with a statement of accepted facts, a set of questions and the medical record, to Dr. Harry B. Blumenfeld, a Board-certified internist, for an impartial evaluation.

In a comprehensive report dated August 28, 2000, Dr. Blumenfeld diagnosed cervical spondylosis, lumbar spondylosis, polytendinitis involving both shoulders and both elbows, possible carpal tunnel syndrome by history, possible corticosteroid-induced osteoporosis, breast

cancer and major depression. He advised that, while her employment duties probably contributed to some of the diagnoses, he found no evidence that she had lupus, stating:

“My rationale is the following. The only objective evidence is a weakly positive FANA, which is seen even in the normal population approximately five percent of the time. On numerous occasions, she has had normal sedimentation rates which is quite unusual for a patient with active lupus erythematosus. As well, I find no evidence of past synovitis in any of the joints [or] really any objective evidence of skin disease consistent with the diagnosis of lupus. She has had no vital organ involvement such as pulmonary disease, heart disease, kidney disease, hematologic disease or serious central nervous system disease such as psychosis. She does have a major depression which in my mind is due to extraneous factors.”

In an attached work capacity evaluation, Dr. Blumenfeld provided restrictions to appellant’s physical activity. He advised that these were due to cervical and lumbar spondylosis and polytendinitis of the elbows.¹

By decision dated September 6, 2000, the Office disallowed appellant’s claim that she sustained employment-related lupus. Appellant again requested a review of the written record and submitted additional medical evidence. By decision dated February 23, 2001, an Office hearing representative affirmed the prior decision. The instant appeal follows.

The Board finds that appellant did not meet her burden of proof to established that she sustained systemic lupus erythematosus causally related to employment factors.

An employee seeking benefits under the Federal Employees’ Compensation Act² has the burden of establishing the essential elements of his or her claim³ including the fact that the individual is an “employee of the United States” within the meaning of the Act,⁴ that the claim was timely filed within the applicable time limitation period of the Act,⁵ 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.⁶ These are essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁷

¹ Appellant has submitted a number of claims to the Office, including two for stress, one for neck strain, one for osteoporosis, two for lateral epicondylitis and one for strain of the index finger. The instant claim was adjudicated by the Office under file number 06-0719060.

² 5 U.S.C. §§ 8101-8193.

³ See *Daniel R. Hickman*, 34 ECAB 1220 (1983); see also 20 C.F.R. § 10.110.

⁴ See *James A. Lynch*, 32 ECAB 216 (1980); see also 5 U.S.C. § 8101(1).

⁵ 5 U.S.C. § 8122.

⁶ See *Melinda C. Epperly*, 45 ECAB 196 (1993).

⁷ See *Delores C. Ellyett*, 41 ECAB 992 (1990); *Victor J. Woodhams*, 41 ECAB 345 (1989).

Causal relationship is a medical issue⁸ and the medical evidence required to establish a causal relationship is rationalized medical evidence. Rationalized medical evidence is medical evidence which includes a physician's rationalized medical 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.⁹ Neither the mere fact that a disease or condition manifests itself during a period of employment nor the belief that the disease or condition was caused or aggravated by employment factors or incidents is sufficient to establish causal relationship.¹⁰ Furthermore, in situations where there are opposing medical reports of virtually equal weight and rationale and the case is referred to an impartial medical specialist for the purpose of resolving the conflict, the opinion of such specialist, if sufficiently well rationalized and based on a proper factual background, must be given special weight.¹¹ Here, finding that a conflict of medical opinion existed, the Office referred appellant to Dr. Harry B. Blumenfeld, a Board-certified internist, to provide an impartial evaluation. In a comprehensive report dated August 28, 2000, Dr. Blumenfeld advised that appellant did not have lupus. While appellant submitted additional reports from Dr. Gupta,¹² he merely reiterated his opinion that appellant suffered from employment-related lupus. As he had been on one side of the conflict in the medical opinion that Dr. Blumenfeld, the impartial medical examiner, resolved, Dr. Gupta's report is insufficient to overcome the special weight accorded Dr. Blumenfeld.¹³ The Board, therefore, finds that appellant failed to establish that she sustained employment-related lupus.

⁸ *Mary J. Briggs*, 37 ECAB 578 (1986).

⁹ *Gary L. Fowler*, 45 ECAB 365 (1994); *Victor J. Woodhams*, *supra* note 7.

¹⁰ *Minnie L. Bryson*, 44 ECAB 713 (1993); *Froilan Negron Marrero*, 33 ECAB 796 (182).

¹¹ *See Kathryn Haggerty*, 45 ECAB 383 (1994); *Edward E. Wright*, 43 ECAB 702 (1992).

¹² Appellant also submitted medical literature. The Board has held, however, that newspaper clippings, medical texts and excerpts from publications are of no evidentiary value in establishing the necessary causal relationship to establish that a claimed condition is related to an employee's federal employment as such materials are of general application and are not determinative of whether the specific condition claimed is related to the particular employment factors alleged by the employee. *Kathleen D. Walker*, 42 ECAB 603 (1991).

¹³ *See Harrison Combs, Jr.*, 45 ECAB 716 (1994).

The decision of the Office of Workers' Compensation Programs dated February 23, 2001 is hereby affirmed.

Dated, Washington, DC
January 3, 2002

Michael J. Walsh
Chairman

Willie T.C. Thomas
Member

Bradley T. Knott
Alternate Member