

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ERRIE L. WILKINS and U.S. POSTAL SERVICE,
POST OFFICE, Detroit, MI

*Docket No. 01-1173; Submitted on the Record;
Issued January 4, 2002*

DECISION and ORDER

Before DAVID S. GERSON, BRADLEY T. KNOTT,
PRISCILLA ANNE SCHWAB

The issue is whether appellant sustained a back injury causally related to factors of her employment.

On November 27, 2000 appellant, then a 52-year-old clerk, filed an occupational disease claim, alleging that she injured her back while performing her duties, which required lifting heavy trays and large tubs of mail.

Accompanying appellant's claim were an April 4, 2000 radiological report by Dr. Steven M. Walczak, a November 27, 2000 statement by appellant and a December 4, 2000 letter by the employing establishment controverting the claim.

By letter dated December 19, 2000, the Office of Workers' Compensation Programs requested additional information from appellant, specifically, a description of outside activities which involve lifting, pushing, pulling, bending, stooping and other strenuous physical activities; a description of how the condition developed and a comprehensive medical report from her treating physician describing her symptoms, tests results, a diagnosis, treatment provided and the doctor's opinion on the cause of her condition.

On January 9, 2001 the Office received January 3, 2001 progress notes by Dr. Dennis S. Giannini, Board-certified in physical medicine and rehabilitation.

By decision dated February 22, 2001, the Office denied appellant's claim finding that the evidence of record failed to establish a causal relationship between a diagnosed condition and the factors of employment to which appellant attributes her condition.

The Board finds that appellant has failed to establish that she sustained an injury to her back causally related to factors of her employment.

An employee seeking benefits under the Federal Employees' Compensation Act¹ 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 filed within the applicable time limitations 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 is causally related to the employment injury.² These are the 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 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.⁴

In this case, Dr. Walczak interpreted a CT scan of the lumbosacral spine as showing annular disc bulging and moderate spinal canal stenosis, but failed to include a medical history or address a causal relationship between the diagnosed condition and the factors of employment to which appellant attributed her condition. Therefore, the report is insufficient to establish appellant's claim. As well, in a January 3, 2001 progress note, Dr. Dennis S. Giannini, Board-certified in physical medicine and rehabilitation, stated that appellant was seen for complaints of low back pain. He stated that a CT scan of the lumbosacral spine performed in April 2000 revealed moderate posterior annular disc bulging with moderate central canal stenosis at L4-5.⁵ Dr. Giannini diagnosed lumbosacral strain, L4-5 bulging disc with central canal stenosis, rule out radiculopathy. He failed to state the specific employment duties to which appellant attributed

¹ 5 U.S.C. § 8101.

² *Joe D. Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143, 1154 (1989).

³ *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁴ *Id.*

⁵ The Board notes that the radiological report listed a disc bulge at L5-6, but later in the report identified the disc bulge at L4-5.

her condition or to explain how performing those duties over a period of time caused or aggravated appellant's condition.

None of the medical evidence provided a rationalized opinion, which addressed a causal relationship between a diagnosed condition and the factors of employment to which appellant attributed her back condition. The Board finds that the evidence of record is not sufficient to establish that the identified factors of employment caused an injury.

An award of compensation may not be based on surmise, conjecture or speculation. Neither the fact that appellant's condition became apparent during a period of employment nor the belief that his condition was caused, precipitated or aggravated by his employment is sufficient to establish causal relationship. Causal relationship must be established by rationalized medical opinion evidence. By letter dated December 19, 2000, the Office advised appellant of the specific evidence needed to establish her claim, but such evidence was not submitted. Therefore, the Office properly denied appellant's claim for compensation.

The February 22, 2001 decision of the Office of Workers' Compensation Programs is affirmed.⁶

Dated, Washington, DC
January 4, 2002

David S. Gerson
Member

Bradley T. Knott
Alternate Member

Priscilla Anne Schwab
Alternate Member

⁶ The Board notes that subsequent to the Office's February 22, 2000 decision and on appeal to the Board, appellant submitted medical evidence which was not considered. As this evidence was not previously submitted to the Office for consideration prior to its decision of February 22, 2000, the evidence represents new evidence, which cannot be considered by the Board. The Board's jurisdiction is limited to reviewing the evidence that was before the Office at the time of its final decision. 20 C.F.R. § 501.2(c). Appellant may submit this evidence to the Office with a formal request for reconsideration pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. § 10.606(b).