

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of WENDY A. MARSCHALL and DEPARTMENT OF THE ARMY,  
WOMACK ARMY MEDICAL CENTER, Fort Bragg, NC

*Docket No. 01-927; Submitted on the Record;  
Issued July 17, 2002*

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DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,  
MICHAEL E. GROOM

The issue is whether appellant met her burden of proof to establish that she sustained disability between April 8, 1992 and January 28, 1999 due to her employment-related condition.

On March 1, 1999 appellant, then a 47-year-old registered nurse, filed an occupational disease claim alleging that she sustained an employment-related latex allergy with anaphylaxis. She indicated that on January 28, 1999 she first became aware that her condition was employment related. The Office of Workers' Compensation Programs accepted that appellant sustained an employment-related contact dermatitis and latex allergy with anaphylaxis reaction. The Office also accepted that she sustained total disability due to her employment-related condition beginning January 29, 1999 and began paying appropriate compensation effective that date.

Appellant claimed that she was entitled to disability compensation, both partial and total, for intermittent periods between April 8, 1992 and January 28, 1999. She asserted that her conversion on April 8, 1992 from full-time to part-time employee status was due to her employment-related condition. Appellant also claimed that in April 1994 her employment-related condition caused her to further reduce her part-time work schedule.<sup>1</sup> By decision dated January 11, 2001, the Office denied appellant's claim on the grounds that she did not submit sufficient medical evidence to establish that she sustained disability between April 8, 1992 and January 28, 1999 due to her employment-related condition.

The Board finds that appellant did not meet her burden of proof to establish that she sustained disability between April 8, 1992 and January 28, 1999 due to her employment-related condition.

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<sup>1</sup> Appellant provided a list of the days between April 8, 1992 and January 28, 1999 that she was claiming partial disability and the days she was claiming total disability. She later indicated that she would not document her partial or total disability for specific days, but rather wished to be paid the difference between her actual part-time salary and what would have been her full-time salary for the period April 8 to January 28, 1999.

An employee seeking benefits under the Federal Employees' Compensation Act<sup>2</sup> has the burden of establishing the essential elements of 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.<sup>3</sup> The medical evidence required to establish a causal relationship between a claimed period of disability and an employment injury 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 compensable 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.<sup>4</sup>

In a report dated June 29, 1999, Dr. Robert S. Adams, a Board-certified family practitioner for the employing establishment, noted that he had treated appellant since 1994 for "various symptoms that now, in retrospect, are most likely related to her known latex allergy." Dr. Adams stated that in 1994 and 1995, while appellant was working in the wards at the employing establishment, he made visits to her at the wards to treat eczematous eruptions on her hands and arms. He noted, "I have observed systemic outbreaks of total body hives on two occasions in the hospital and recall her mentioning that her symptoms were only noticed at work. These urticarial reactions are very consistent with latex allergies."

In this report, Dr. Adams suggested that appellant had episodes in 1994 and 1995 which were related to the accepted employment injury, contact dermatitis and latex allergy with anaphylaxis reaction. This report, however, is of limited probative value on the relevant issue of the present case in that Dr. Adams did not provide adequate medical rationale in support of his conclusion on causal relationship.<sup>5</sup> Dr. Adams did not explain the medical process through which the accepted employment-related condition could have been related to the symptoms observed in 1994 and 1995. He did not provide a detailed factual and medical history, a recitation of specific diagnoses or any notable discussion of specific findings on examination and diagnostic testing.<sup>6</sup> Dr. Adams did not provide a reasoned opinion supporting appellant's claim of intermitted disability for the period of April 18, 1992 to January 28, 1999.

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<sup>2</sup> 5 U.S.C. §§ 8101-8193.

<sup>3</sup> *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

<sup>4</sup> *See Donna Faye Cardwell*, 41 ECAB 730, 741-42 (1990).

<sup>5</sup> *See Leon Harris Ford*, 31 ECAB 514, 518 (1980) (finding that a medical report is of limited probative value on the issue of causal relationship if it contains a conclusion regarding causal relationship which is unsupported by medical rationale).

<sup>6</sup> *See William Nimitz, Jr.*, 30 ECAB 567, 570 (1979) (finding that a medical opinion on causal relationship must be based on a complete and accurate factual and medical history).

In a report dated July 28, 1999, Dr. R. Steven Pence, a Board-certified pediatrician specializing in allergy and immunology for the employing establishment, diagnosed latex allergy with anaphylaxis which was related to her exposure to latex in the workplace. He stated that appellant's symptoms began with severe hand pruritus with ocular burning and shortness of breath that started in the fall of 1991. Dr. Pence noted, "[d]ue to continued exposure she has continued to show signs throughout her work period (career since 1991) of ongoing latex reactions."<sup>7</sup> In a form report dated April 3, 2000, Dr. Pence diagnosed severe latex allergy and checked a "yes" box indicating that the condition was employment related. He stated, "[t]his was clearly caused by latex exposure. This reaction leading to asthma also increased risk of infections, *i.e.*, bronchitis, pneumonia. She continued to work, but had to decrease from full time due to reactions." Dr. Pence indicated that appellant was partially disabled from April 8, 1992 to January 28, 1999 and totally disabled from January 29, 1999 to the present. He noted that he first treated appellant on February 23, 1999.

In these reports, Dr. Pence indicated that appellant had partial disability from April 8, 1992 to January 28, 1999 and suggested that appellant's move to part-time work was due to her employment injury. However, Dr. Pence did not provide adequate medical rationale in support of his opinion.<sup>8</sup> He did not explain how the accepted employment-related condition caused disability for the period April 8, 1992 to January 28, 1999. Such medical rationale is especially necessary because Dr. Pence did not start treating appellant until February 23, 1999, *i.e.*, a time after the period for which appellant claims compensation. He did not provide any significant factual and medical history and he did not make reference to any specific findings from the period April 8, 1992 to January 28, 1999 which would lend support to his opinion. Under these circumstances, it does not appear that Dr. Pence conducted an adequate review of the medical evidence from the April 8, 1992 to January 28, 1999 such that he would be able to provide a reasoned opinion on the cause of appellant's claimed disability during this period.

Appellant submitted a note, dated in February 1993, which indicated that she was treated for gastroenteritis and sinusitis. She also submitted notes, dated in November and December 1994 and April 20, 1995, which contained diagnoses such as bronchitis and lymphatic swelling. In these notes, appellant reported such symptoms as sore throat and chest pressure.<sup>9</sup> Although it appears that appellant's latex allergy remained undiagnosed for an extended period, none of these reports provides a clear opinion that the observed symptoms were due to the accepted employment injury. These notes contain extremely limited notations regarding appellant's factual and medical history and do not provide any indication that the reported symptoms

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<sup>7</sup> The record also contains a similar report of Dr. Pence dated January 6, 2000.

<sup>8</sup> In a report dated August 6, 1999, Dr. Victor C. Hoefner, an osteopath for the employing establishment, noted appellant reported first noticing symptoms of contact dermatitis in 1991. He stated that contact dermatitis is often an overlooked sign of latex allergy. Dr. Hoefner did not provide any indication that appellant had employment-related disability due to this condition during the period April 8, 1992 to January 28, 1999.

<sup>9</sup> Most of these notes were not signed and it is unclear whether the signed notes were signed by physicians.

constituted latex-based reactions. Moreover, they do not provide any opinion that appellant sustained disability due to an employment-related condition.<sup>10</sup>

For these reasons, appellant did not meet her burden of proof to establish that she sustained disability between April 8, 1992 and January 28, 1999 due to her employment-related condition.

The January 11, 2001 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, DC  
July 17, 2002

David S. Gerson  
Alternate Member

Willie T.C. Thomas  
Alternate Member

Michael E. Groom  
Alternate Member

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<sup>10</sup> In a note dated September 20, 2000, an Office medical adviser stated "yes" in response to a question whether appellant's date of injury should "reflect April 8, 1992." However, he did not provide an opinion that appellant had employment-related disability during the period April 8, 1992 to January 28, 1999.