

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of DOLORES D. DAUB and DEPARTMENT OF AGRICULTURE,
FOOD SAFETY INSPECTION SERVICE, Minneapolis, MN

*Docket No. 01-1974; Submitted on the Record;
Issued May 23, 2002*

DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS,
A. PETER KANJORSKI

The issue is whether appellant met her burden of proof to establish that she sustained a respiratory, allergic or inflammatory muscle condition in the performance of duty.

On March 30, 2001 appellant, then a 52-year-old consumer safety inspector, filed an occupational injury claim alleging that she sustained various conditions due to work factors. She claimed that she sustained chronic asthma, colds, bronchitis and migraine headaches from breathing noxious odors and being exposed to both extreme hot and cold environments while conducting inspections of food plants and slaughterhouses. Appellant also claimed that she sustained bursitis in her lower extremities due to performing extensive walking, standing, and climbing up and down ladders.¹ By decision dated July 19, 2001, the Office denied appellant's claim on the grounds that she did not submit sufficient medical evidence to establish that she sustained a respiratory, allergic or inflammatory muscle condition in the performance of duty.

The Board finds that appellant did not meet her burden of proof to establish that she sustained a respiratory, allergic or inflammatory muscle condition in the performance of duty.

An employee seeking benefits under the Federal Employees' Compensation Act² 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.³ These are the essential

¹ Appellant indicated that she first became aware of her condition in January 1999; she indicated that she worked many hours of overtime. The Office has accepted the existence of the employment factors as alleged by appellant.

² 5 U.S.C. §§ 8101-8193.

³ *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁴

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 a causal relationship 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.⁵

The Board finds that appellant did not submit sufficient medical evidence to establish that she sustained a respiratory, allergic or inflammatory muscle condition in the performance of duty. Appellant submitted numerous medical notes, dated between January 1999 and August 2000, which detailed the treatment of her various medical problems. Many of the notes diagnose appellant as having such conditions as bronchitis, colds and migraine headaches accompanied by such symptoms as pain, sore throat and sinus drainage.

These reports, however, are of limited probative value on the relevant issue of the present case in that they do not contain an opinion on causal relationship.⁶ None of the submitted reports contain any opinion on the cause of the diagnosed conditions. The Office provided appellant with an opportunity to provide additional probative medical evidence in support of her claim but she did not provide such evidence. Appellant did not submit rationalized medical evidence relating her claimed medical conditions to employment factors.

For these reasons, appellant did not meet her burden of proof to establish that she sustained a respiratory, allergic or inflammatory muscle condition in the performance of duty.

⁴ See *Delores C. Ellyett*, 41 ECAB 992, 994 (1990); *Ruthie M. Evans*, 41 ECAB 416, 423-25 (1990).

⁵ *Victor J. Woodhams*, 41 ECAB 345, 351-52 (1989).

⁶ See *Charles H. Tomaszewski*, 39 ECAB 461, 467-68 (1988) (finding that medical evidence which does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship).

The decision of the Office of Workers' Compensation Programs dated July 19, 2001 is affirmed.

Dated, Washington, DC
May 23, 2002

Michael J. Walsh
Chairman

Willie T.C. Thomas
Alternate Member

A. Peter Kanjorski
Alternate Member