

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of JACQUELYNN A. HALE and DEPARTMENT OF COMMERCE,  
NATIONAL WEATHER SERVICE, Sterling, VA

*Docket No. 01-2071; Submitted on the Record;  
Issued November 7, 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 she sustained a back injury in the performance of duty.

On March 1, 2001 appellant, then a 51-year-old meteorological technician, filed a notice of traumatic injury alleging that she was injured in the performance of duty on February 7 and June 30, 2000.

Appellant attached to his CA-1 claim form a narrative statement dated February 19, 2001. She related that on February 7, 2000 "while attempting to move the Cotton Region Shelter [a large heavy box mounted on steel legs which houses weather reading equipment] that I first experienced a localized pain in my lower back. Thinking the pain to be nothing more than a pulled muscle, I did not feel it necessary to seek medical attention." Appellant related that, on June 30, 2000, she reinjured the same area of her back while attempting to move the cotton region station out of the way of new construction. She stated that she reported both incidents of injury to her supervisor on the respective dates they occurred. Appellant also noted that she sought medical attention for low back pain on January 16 and February 1 and 6, 2001.

In support of her claim, appellant submitted a copy of a magnetic resonance image (MRI) scan of the lumbar spine dated February 10, 2001 that showed a small, left paracentral disc herniation at L5-S1 and a small subannular disc herniation at L2-3.

In a report dated February 28, 2001, Dr. Norman L. Mauroner, a Board-certified internist, noted that appellant had been seen by him on several occasions for persistent and chronic low back pain. He noted that appellant complained of low back pain on January 16, 2001, which she attributed to moving equipment at work. Dr. Mauroner advised that appellant had persistent pain and was treated over the telephone with a steroid prescription on February 5, 2001. He opined that appellant suffered from weakened discs at L2-3 and L5-S1 due to small disc herniations demonstrated by MRI scan. Dr. Mauroner recommended that appellant be restricted to light duty.

Appellant also submitted a copy of emergency room discharge instructions for a diagnosis of lower back strain and a request for approved sick leave from February 3 to 6, 2001.

In a March 20, 2001 letter, the Office of Workers' Compensation Programs notified appellant that her claim was being processed as an occupational disease claim and not one for traumatic injury since the description of injury provided by appellant indicated that more than one eight-hour work period was involved. Appellant was further advised of the medical and factual evidence required to establish her claim.

In a decision dated August 2, 2001, the Office denied appellant's claim for compensation on the grounds that the medical evidence was insufficient to establish that her back condition was causally related to factors of her employment.

The Board finds that appellant failed to establish that she sustained an injury in the performance of duty.<sup>1</sup>

An employee seeking benefits under the Federal Employees' Compensation Act<sup>2</sup> 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 timely filed within the applicable time limitation 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> These are essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.<sup>4</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 a 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 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 claimant.<sup>5</sup>

The medical evidence required to establish causation, 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

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<sup>1</sup> Additional evidence submitted by appellant after the Office's August 2, 2001 decision was not considered. The Board has no jurisdiction to review evidence that was not before the Office at the time it issued its final decision. 20 C.F.R. § 501.2(c).

<sup>2</sup> 5 U.S.C. §§ 8101-8193; *see* 20 C.F.R. §§ 10.115-10.116 (1999).

<sup>3</sup> *Joe D. Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton* 40 ECAB 1143 (1989).

<sup>4</sup> *Delores C. Ellyett*, 41 ECAB 992 (1990); *Victor J. Woodhams*, 41 ECAB 345 (1989).

<sup>5</sup> *Victor J. Woodhams*, *supra* note 4.

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 claimant.<sup>6</sup>

In the instant case, appellant did not submit a rationalized medical opinion stating that her back condition was due to moving equipment in the performance of duty on February 7 and June 30, 2000. Although Dr. Mauroner indicated that appellant suffered from disc herniations at L2-3 and L5-S1. He noted a history of back pain on January 16, 2001 but did not mention the lifting incidents cited by appellant as having occurred on February 7 or June 30, 2000. In the absence of any rationalized medical opinion evidence showing a causal relationship between appellant's back condition and the work factors she identified, the Office properly denied compensation.

The decision of the Office of Workers' Compensation Programs dated August 2, 2001 is hereby affirmed.

Dated, Washington, DC  
November 7, 2002

Alec J. Koromilas  
Member

Colleen Duffy Kiko  
Member

A. Peter Kanjorski  
Alternate Member

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<sup>6</sup> *Id.*