

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JANICE M. ROSS and U.S. POSTAL SERVICE,
POST OFFICE, Carrollton, TX

*Docket No. 02-1189; Submitted on the Record;
Issued November 1, 2002*

DECISION and ORDER

Before MICHAEL J. WALSH, COLLEEN DUFFY KIKO,
A. PETER KANJORSKI

The issue is whether appellant has met her burden of proof to establish an injury causally related to factors of her federal employment.

On March 22, 2001 appellant, then a 41-year-old rural mail carrier, filed a claim alleging that she sustained neck and shoulder injuries causally related to her federal employment. She identified work factors such as standing, as well as repetitive head and arm movements while casing and delivering mail.

In a decision dated July 17, 2001, the Office of Workers' Compensation Programs denied the claim, finding that the medical evidence was insufficient to establish the claim.

The Board finds that appellant has not met her burden of proof in this case.

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.¹ The evidence required to establish causal relationship is rationalized medical opinion evidence, based upon a complete and accurate factual and medical background, showing a causal relationship between the claimed conditions and her federal employment.² Neither the fact that the condition became manifested during a period of federal employment, nor the belief of

¹ *Victor J. Woodhams*, 41 ECAB 345 (1989).

² *See Walter D. Morehead*, 31 ECAB 188 (1979).

appellant that the condition was caused or aggravated by her federal employment, is sufficient to establish causal relation.³

With respect to causal relationship between a diagnosed condition and the identified employment factors, appellant did not submit any probative medical evidence prior to the July 17, 2001 decision.⁴ The record contains brief reports dated March 26 and April 30, 2001 from a chiropractor, Dr. Gary Gentry, regarding appellant's treatment. Section 8101(2) of the Federal Employees' Compensation Act provides that the term "physician" ... includes chiropractors only to the extent that their reimbursable services are limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by x-ray to exist."⁵ Since Dr. Gentry did not diagnose a subluxation as demonstrated by x-rays, he is not considered a physician under the Act and his reports are of no probative medical value.⁶ In the absence of probative medical evidence on the issue of causal relationship, the Board finds that appellant did not meet her burden of proof in this case.

The decision of the Office of Workers' Compensation Programs dated July 17, 2001 is affirmed.

Dated, Washington, DC
November 1, 2002

Michael J. Walsh
Chairman

Colleen Duffy Kiko
Member

A. Peter Kanjorski
Alternate Member

³ *Manuel Garcia*, 37 ECAB 767 (1986).

⁴ Appellant submitted evidence after the July 17, 2001 decision, but the Board may only review evidence that was before the Office at the time the final decision was issued. 20 C.F.R. § 501.2(c). Additional evidence can be submitted, along with a request for reconsideration, to the Office.

⁵ 5 U.S.C. § 8101(2).

⁶ *See Jack B. Wood*, 40 ECAB 95, 109 (1988).