

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of DAVID A. NIGG and U.S. POSTAL SERVICE,
GENERAL MAIL FACILITY, San Bernardino, CA

*Docket No. 02-1672; Submitted on the Record;
Issued November 6, 2002*

DECISION and ORDER

Before MICHAEL J. WALSH, COLLEEN DUFFY KIKO,
WILLIE T.C. THOMAS

The issue is whether appellant met his burden of proof to establish that he sustained a back condition in the performance of duty.

Appellant, a 47-year-old clerk, filed a Form CA-2 claim for benefits based on occupational disease on January 16, 2002, alleging that he injured his back while pulling a pack of mail. In support of his claim, appellant submitted results of magnetic resonance imaging (MRI) scans he underwent on February 17, 1999 and September 26, 2001.

By letter dated February 13, 2002, the Office of Workers' Compensation Programs advised appellant that it required additional factual and medical evidence to determine whether he was eligible for compensation benefits. The Office asked appellant to submit a comprehensive medical report from his treating physician describing his symptoms and the medical reasons for his condition, and an opinion as to whether his claimed condition was causally related to his federal employment. The Office requested that appellant submit the additional evidence within 30 days.

Appellant submitted a February 17, 1999 report from Dr. Owen R. McIvor, a Board-certified orthopedic surgeon, who stated findings on examination and noted that appellant was being treated for right shoulder numbness, back pain and leg numbness. He also stated that appellant was currently working and had exhibited excellent range of motion, with normal strength. Dr. McIvor provided no opinion, however, regarding whether appellant's claimed back condition was disabling, or whether this condition was causally related to factors of employment.

By decision dated April 16, 2002, the Office denied appellant's claim on the grounds that the claimed medical condition was not causally related to factors or incidents of employment.

The Board finds that appellant did not meet his burden of proof to establish that he sustained a back condition in the performance of duty.

An employee seeking benefits under the Federal Employees' Compensation Act¹ has the burden of establishing that 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 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.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 is usually rationalized medical 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 the present case, appellant failed to submit medical evidence demonstrating a causal relationship between his back condition and factors and incidents of his employment. The only medical evidence appellant submitted was Dr. McIvor's February 17, 1999 report, which was not sufficient to establish that his claimed back condition was disabling or causally related to his employment. Dr. McIvor noted that appellant complained of back pain and was placed on prednisone for treatment of sciatica, but did not explain or indicate how factors of employment contributed to his back condition. Appellant, therefore, has failed to submit any rationalized, probative medical evidence establishing that his claimed back condition is causally related to factors or incidents of employment.

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

¹ 5 U.S.C. §§ 8101-8193.

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

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

⁴ *Id.*

sufficient to establish causal relationship.⁵ Causal relationship must be established by rationalized medical opinion evidence. The Office advised appellant of the type of evidence required to establish his claim; however, appellant failed to submit such evidence. Appellant, therefore, did not provide a medical opinion to sufficiently describe or explain the medical process through which factors of his employment would have been competent to cause his claimed condition. Thus, the Office's April 16, 2002 decision is affirmed.

The April 16, 2002 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, DC
November 6, 2002

Michael J. Walsh
Chairman

Colleen Duffy Kiko
Member

Willie T.C. Thomas
Alternate Member

⁵ *See Id.*