

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ROBERT P. LIDDIARD and U.S. POSTAL SERVICE,
POST OFFICE, Provo, UT

*Docket No. 02-687; Submitted on the Record;
Issued October 25, 2002*

DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,
WILLIE T.C. THOMAS

The issue is whether appellant has established that his left hip condition is causally related to factors of his federal employment.

On October 6, 2001 appellant, then a 53-year old mail carrier, filed a notice of occupational disease and claim for compensation, alleging that he suffered a left hip injury in April 1990 falling off a 3½ foot loading dock while performing his duties. He attributed his current condition of severe degenerative left hip due to the above incident along with his continuing duties as a mail carrier, running, hopping, twisting, lifting and stair climbing as contributing to his condition. Appellant advised that he has been seeking medical treatment over the years with Dr. DeVon Nelson, a Board-certified orthopedic surgeon.

In a September 19, 2001 medical report, Dr. Nelson stated that he has been following appellant the last several years for a severe degenerative left hip. He stated that "my feeling in carefully question[ing] [appellant] is that the beginning of his left hip problems was precipitated in a fall off a loading dock while working for the employing establishment. Since that time [appellant] has had persistent pain in the left hip area that has grown gradually worse." Dr. Nelson advised that appellant's symptoms and appearance of his x-rays demonstrates the need for a total hip arthroplasty. He opined that there was a definite cause and effect from the fall, which has created the discomfort in appellant's hip.

By letter dated October 19, 2001, the Office of Workers' Compensation Programs informed appellant of his responsibility to provide factual and medical evidence to substantiate his claim. He was also advised that medical evidence containing a diagnosis and the physician's reasoned opinion regarding the relationship between the condition and specific employment duties was required.

In a letter dated November 1, 2001, the Office informed Dr. Nelson that a well-rationalized medical opinion regarding an aggravation of any underlying conditions was needed

along with an explanation as to how such an underlying condition could have been altered due to appellant's federal employment activities.

In a November 12, 2001 medical report, Dr. Nelson stated that appellant suffers from chronic (permanent) degenerative hip disease participated apparently by an injury 10 years ago while stepping off a landing dock. As a result of this injury, he has bone on bone arthritis in the hip. Dr. Nelson opined that the only permanent solution to this condition was a total hip replacement.

By decision dated December 13, 2001, the Office denied appellant's claim as the medical evidence submitted failed to establish a causal relation between the claimed factors and appellant's condition. The Office noted that he was advised of the deficiencies in the claim and afforded the opportunity to provide supportive evidence.

The Board has duly reviewed the case record in the present appeal and finds that appellant failed to establish that his left hip condition is causally related to factors of his federal employment.

An employee seeking benefits under the Federal Employees' Compensation Act¹ has the burden of establishing the essential elements of her claim, including the fact 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

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 the 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.³ The medical evidence required to establish a causal relationship, generally, is rationalized medical opinion evidence.⁴

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

¹ 5 U.S.C. §§ 8101-8193.

² *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

³ *Jerry D. Osterman*, 46 ECAB 500 (1995); *see also Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

⁴ The Board has held that in certain cases, where the causal connection is so obvious, expert medical testimony may be dispensed with to establish a claim; *see Naomi A. Lilly*, 10 ECAB 560, 572-73 (1959). The instant case, however, is not a case of obvious causal connection.

be based on a complete factual and medical background of the claimant,⁵ must be one of reasonable medical certainty⁶ 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.⁷ The mere fact that a condition manifests itself during a period of employment does not raise an inference that there is a causal relationship between the two. Neither the fact that the condition became apparent during a period of employment, nor the belief of appellant that the condition was caused by or aggravated by employment conditions is sufficient to establish causal relation.⁸

In this case, the medical evidence submitted by appellant is not sufficient to establish that his claimed left hip condition was caused or aggravated by his federal employment. The Office, in its letter of November 1, 2001, specifically informed Dr. Nelson of the deficiencies in his report of September 19, 2001 and advised him of the type of medical rationale needed to support a causal relation between appellant's hip condition and factors of his federal employment. In his November 12, 2001 medical report, Dr. Nelson failed to provide any medical rationale supported by objective evidence relating appellant's degenerative hip disease to factors of his employment. As neither of Dr. Nelson's reports establishes that appellant's claimed condition was caused or aggravated by factors of his federal employment and appellant was afforded the opportunity to provide such supportive evidence, appellant has not met his burden of proof in this case.

⁵ *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

⁶ *See Morris Scanlon*, 11 ECAB 384-85 (1960).

⁷ *See William E. Enright*, 31 ECAB 426, 430 (1980).

⁸ *Manuel Garcia*, 37 ECAB 767, 773 (1986); *Juanita C. Rogers*, 34 ECAB 544, 546 (1983).

The decision of the Office of Workers' Compensation Programs dated December 13, 2001 is affirmed.⁹

Dated, Washington, DC
October 25, 2002

Michael J. Walsh
Chairman

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member

⁹ The Board notes that appellant's appeal to the Board was accompanied by new evidence. The Board's jurisdiction on appeal is limited to a review of the evidence, which was in the case record before the Office at the time of its final decision; *see* 20 C.F.R. § 501.2(c). Therefore, the Board is precluded from reviewing this evidence. Appellant may resubmit this evidence and legal contentions to the Office accompanied by a request for reconsideration pursuant to 5 U.S.C. § 8128(a). 20 C.F.R. § 10.606(b)(1999).