

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of MICHAEL D. CARSON and U.S. POSTAL SERVICE,
POST OFFICE, Medford, OR

*Docket No. 02-829; Submitted on the Record;
Issued October 7, 2002*

DECISION and ORDER

Before MICHAEL J. WALSH, ALEC J. KOROMILAS,
WILLIE T.C. THOMAS

The issue is whether appellant established that his multiple medical conditions were aggravated by factors of his federal employment.

On October 3, 2000 appellant, then a 35-year-old mail processor, filed an occupational disease claim alleging that having to sit for extended periods, moving his neck and sorting mail caused neck pain, low back pain, swollen bilateral thumb joints and aggravation of appellant's hemorrhoids. Appellant noted that he first became aware of his condition and realized that it was a result of appellant's employment on September 10, 2000. At the time his claim was filed, appellant was assigned to a light-duty position to accommodate limitations resulting from bilateral tenosynovitis of the arms.¹

In support of his claim, appellant submitted a treatment note dated October 3, 2000, from Dr. Richard Williams, a Board-certified family practitioner. Dr. Williams first noted that appellant had a prior history of work-related de Quervains' tenosynovitis. He described appellant's complaints of low back pain, neck pain, sore thumb joints and painful hemorrhoids. Dr. Williams related that appellant attributed these conditions to having to sit at a desk all day working on a computer and having to sort mail. He explained that appellant had been assigned to a desk job due to his difficulty with de Quervains' tenosynovitis. On physical examination, he noted full range of motion of the neck, excellent range of motion in the back, some crepitus at the bilateral metacarpophalangeal joints of the thumb and a few internal hemorrhoids that were not bleeding at the time of the examination. Dr. Williams diagnosed: (1) de Quervains' tenosynovitis with no significant change; (2) low back discomfort, likely mechanical, that may have been exacerbated by prolonged sitting; (3) internal hemorrhoids that may have been exacerbated by prolonged sitting; (4) cervical strain likely due to prolonged positional changes with appellant's head in a flexed forward looking at a computer screen or down at paper; and

¹ Appellant had filed a prior claim for this condition (A14-345595), which was accepted by the Office of Workers' Compensation Programs.

(5) possible arthritis of the thumb metacarpophalangeal joints, potentially related to repetitive motion problems. He concluded, "Overall I feel that his problems certainly do relate to the work environment."

In a report dated October 17, 2000, Dr. Williams stated as follows:

"[Appellant] has de Quervains' tenosynovitis, which is clearly related to his work. Recently he has also reported low back discomfort, hemorrhoids with bleeding, cervical strain and possible arthritis of the thumb. Apparently, [appellant] has preexisting conditions of low back problems and hemorrhoids, related to his work in the military. He reports that these conditions have been worsened by his current work situation. Please see my detailed dictated office visit report of October 3, 2000. These conditions may certainly be exacerbated by his work situation."

In a December 13, 2000 letter, the Office advised appellant of the factual and medical evidence required to establish his claim.

On December 21, 2000 the claimant provided a narrative statement responding to the Office's request to describe all outside activities he engaged in that were relevant to his claimed conditions. Appellant noted that on December 19, 2000 he drove 200 miles, experiencing back and neck pain, hemorrhoidal discomfort and sore thumb joints from holding the steering wheel. Appellant alleged that he never had this type of pain before while driving and attributed it to his light-duty assignment of sitting and sorting mail. He also had the same pain on the return drive on December 20, 2000.

In a decision dated January 16, 2001, the Office denied the claim on the grounds that the medical evidence was insufficient to establish a causal relationship between any of the specified medical conditions and appellant's work factors.

Appellant requested a hearing that was held on July 17, 2001.

Appellant was provided 30 days posthearing to submit additional evidence. He subsequently submitted a January 9, 2001, treatment note by Dr. Williams with the following findings:

"(1) Low back pain. He has a preexisting condition from the military, which I believe is exacerbated by positional changes in his work situation. I believe that his current work situation may exacerbate his chronic low back pain, which is a preexisting condition. However, we never had any lumbar spine x-rays, so we will go ahead and get those. I believe it is musculoskeletal low back pain.

"(2) Neck pain. Again likely a work-related condition. It certainly may be related to postural sitting and sorting and various other tasks that he does at work. No evidence of neurological compromise. Obtain cervical spine films as we do not have any prior evaluation. No evidence of neuropathy at this time.

“(3) Hemorrhoid problems. I previously saw him for that and noted some hemorrhoids, but after a few months off of work, his condition improved and when he saw Dr. [Tamara M.] Powell there were no hemorrhoids noted, just a fissure. I am not sure how much that is contributing to his current situation.

“(4) Overall, I feel that certainly the back and neck pains are work related and his hemorrhoidal problems may flare-up periodically depending on how much sitting he is doing, though when examined by Dr. Powell he did not have any active hemorrhoids. Once again, I encouraged him to have a more formal and thorough disability-type evaluation.”

In the July 2, 2001 report, Dr. Williams stated that he believed appellant’s preexisting low back condition had been exacerbated by his work situation, even though there were only minimal findings on objective examination. He noted that the neck problem was new and seemed to be postural and work related.

In a decision dated October 2, 2001, an Office hearing representative affirmed the Office’s January 16, 2001 decision, with respect to the issue of exacerbation of a low back or hemorrhoidal condition. The Office hearing representative, however, determined that further medical development was required with respect to the cervical condition and, therefore, remanded the case to the Office to obtain a supplemental statement from Dr. Williams as to whether the cervical condition was causally related to appellant’s employment.

In a letter dated December 5, 2001, the Office requested detailed information from Dr. Williams, including a rationaled medical opinion, as to whether appellant’s cervical condition was causally related to his work factors.

Dr. Williams responded on January 16, 2002 by making a notation on a copy of the Office’s December 5, 2001 letter. He indicated that a neck x-ray revealed that appellant suffered from cervical spondylosis, “more likely due to age-related factors. Dr. Williams further diagnosed a cervical strain and stated, “I believe prolonged positional changes with head flexed forward contribute to his neck strain/pain.” He opined that frequent postural changes may help alleviate his neck symptoms.

In a decision dated January 18, 2002, the Office denied compensation on the grounds that the medical evidence was insufficient to establish that appellant suffered from a cervical condition causally related to his federal employment.

The Board finds that this case is not in posture for a decision.

An employee seeking benefits under the Federal Employees’ Compensation Act² 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

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

compensation is claimed are causally related to the employment injury.³ These are essential 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 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 the claimant.⁵

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 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.⁶

Initially, the Board finds that appellant failed to establish that his low back pain or hemorrhoidal condition was causally related to work factors.⁷

In his October 3, 2000 report, Dr. Williams provided a discussion of several conditions he indicated to be "probably" work related. Dr. Williams stated that the claimant's low back discomfort and internal hemorrhoid pain may have been exacerbated by prolonged sitting. The Board has held that equivocal opinions of causal relationship are of insufficient probative value.⁸ Because Dr. Williams' reports are basically speculative with respect to whether appellant has a

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

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

⁵ See *Victor J. Woodhams*, *supra* note 4.

⁶ *Id.*

⁷ The Board notes that appellant's claim concerns the issue of consequential injury since appellant contends that the light-duty job, which he was required to perform due to a work injury has caused him to suffer additional impairments. It is an accepted principle of workers' compensation law and the Board has so recognized, that when the primary injury is shown to have arisen out of and in the course of employment, every natural consequence that flows from the injury is deemed to arise out of the employment, unless it is the result of an independent intervening cause which is attributable to the employee's own intentional conduct. See *Caroline King Palermo (Travis Palermo)*, 45 ECAB 308 (1994). The Office's error in not discussing consequential injury is harmless insofar as the Board concludes that the medical evidence is insufficient to establish that appellant suffers from a lower back condition or hemorrhoids due to work factors.

⁸ See *Geraldine H. Johnson*, 44 ECAB 745 (1993).

lower back condition or a hemorrhoidal condition due to work factors, the Board finds his opinion to be speculative and insufficient to establish a work-related low back or hemorrhoid condition.

Furthermore, in his January 9, 2001 treatment note, Dr Williams generally states that appellant has a preexisting back condition from the military but he provided no specific diagnosis of appellant's alleged work-related back problem other than subjective pain. Dr. Williams did not even identify the nature of appellant's alleged preexisting back condition. He also noted in his January 9, 2001 report, that he was unsure how much of appellant's condition was attributable to his employment.

Although Dr. Williams has repeatedly stated that appellant's low back complaints and hemorrhoidal condition were aggravated by his job duties, he has provided no rationale for his medical conclusions. Dr. Williams did not discuss any objective findings to support his opinion, nor did he explain with any specificity how appellant's preexisting medical conditions were exacerbated by work factors. This is especially important given that appellant's July 2001 lumbar x-rays were normal. Appellant has also described driving and sitting in a car while off duty for prolonged periods of time. Because Dr. Williams did not discuss what contribution if any these driving activities had in aggravating appellant's medical conditions, his opinion on causal relationship is not sufficiently reasoned to establish appellant's claim for compensation.

Notwithstanding, the Board finds that appellant is entitled to further medical development on the issue of his alleged cervical condition.

The Office requested supplemental information from Dr. Williams as to whether appellant's cervical condition was causally related to work factors. Dr. Williams responded on January 16, 2002 stating that appellant had a cervical strain which he believed was due to "prolonged positional changes with the head flexed forward," consistent with appellant's work duties and his complaint that he had to sit and work at a computer for prolonged periods of time. Although Dr. Williams did not fully discuss the objective basis for his diagnosis of a cervical strain, his opinion is uncontradicted in the record.

Proceedings under the Act are not adversarial in nature nor is the Office a disinterested arbitrator. While appellant has the burden to establish entitlement to compensation, the Office shares responsibility in the development of evidence.⁹ The Office has the obligation to see that justice is done.¹⁰ Because the uncontradicted medical evidence of record suggests that appellant has a cervical strain due to work factors, the Office is required to further develop the claim by sending appellant for a second opinion evaluation with an appropriate medical specialist to address whether appellant sustained a cervical condition in the performance of duty. After such further medical development as the Office deems necessary, the Office shall issue a *de novo* decision.

⁹ See *Rebel L. Cantrell*, 44 ECAB 660 (1993).

¹⁰ *Id.*

The January 18, 2002 decision of the Office of Workers' Compensation Programs is hereby affirmed in part and vacated in part and the case is remanded for further consideration consistent with this opinion.

Dated, Washington, DC
October 7, 2002

Michael J. Walsh
Chairman

Alec J. Koromilas
Member

Willie T.C. Thomas
Alternate Member