

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of DASARA V. RATHNAMMA and DEPARTMENT OF THE NAVY,  
NAVAL SURFACE WARFARE CENTER, Philadelphia, PA

*Docket No. 03-172; Submitted on the Record;  
Issued April 7, 2003*

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DECISION and ORDER

Before COLLEEN DUFFY KIKO, DAVID S. GERSON,  
WILLIE T.C. THOMAS

The issue is whether appellant sustained an injury in the performance of duty.

On October 16, 2001 appellant, then a 77-year-old retired scientist, filed a claim for occupational disease, alleging that her current condition of imbalance was caused and/or aggravated by her employment. She stated that she first realized her imbalance condition was caused and/or aggravated by her employment on August 17, 1993.<sup>1</sup> In a separate statement, appellant asserted that her supervisor had insisted that she place samples in the Puse Tube, which required climbing three flights of steps frequently several times a day. She stated that this was not in her job description and, after trying that task for a few days, had advised her supervisor that the task was painful for her. Appellant saw a military physician and was advised that if her supervisor wanted to know whether she was unfit for a certain task, like negotiating steps, then the supervisor needed to write a memorandum so a fitness-for-duty examination may be conducted. She stated that she was assigned inventory taking and with all the standing involved, her knee pain became worse. Appellant also stated that this task was not in her job description. She further stated that climbing the steps of Building 12 had aggravated her knee pain and contributed to her imbalance. Appellant advised that her imbalance worsened to the point where she became dependent on a walker to get around. She related that she saw numerous physicians in an effort to solve the imbalance problem. Appellant further stated that, after she had returned from vacation, her orthopedic surgeon advised her not to negotiate steps. She further related that the employing establishment responded to her request by relocating her to a first floor building.

By letter dated January 7, 2002, the Office of Workers' Compensation Programs advised appellant that the information she had submitted was insufficient to establish that she sustained an injury during the time frame alleged. The Office requested that she submit employment-related activities that she believed contributed to her condition, noting how long she performed

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<sup>1</sup> Appellant voluntarily retired from the employing establishment on September 30, 1998.

the activities described and to provide a listing of all jobs held since her retirement from the Federal Government both in the United States and other countries. The Office also asked for all her medical records pertaining to her condition including copies of all treatment notes and test results related to her claimed condition and a comprehensive medical report from her treating physician, which described her symptoms and the physician's opinion, with medical reasons, on the cause of her condition including an explanation if the physician felt that incidents in her federal employment contributed to her condition.

By decision dated February 7, 2002, the Office denied appellant's claim on the grounds that she failed to establish a causal relationship between her employment and her medical condition.

Appellant requested a review of the written record. Medical evidence from 1993, 1994, 1996, 2001 and 2002 was received which documented the medical expertise appellant sought in attempting to find the cause of her imbalance condition. The reports state that appellant has patellofemoral arthritis of both knees and spondylolisthesis at the L4-5 level of her spine. As the majority of the medical reports received contained no discussion on the cause of appellant's diagnoses and failed to relate a history of appellant's federal employment, only those medical reports, which mention appellant's employment, will be discussed.

In a November 1, 2001 report, Dr. Montague Blundon, a Board-certified orthopedic surgeon, stated that appellant was evaluated regarding an injury that she sustained at work on May 20, 1992. After reviewing her medical records and examining her, he opined that she was injured at work and she continues to have substantial problems as a result of this injury. He noted that appellant apparently was involved in climbing stairs in her job in 1992 and sustained problems both with her balance and also with her knee. Dr. Blundon further noted that, when appellant returned from India in 1993, she still had spasms and pain in both of her legs and currently is unable to ambulate except or with a walker and, even then, she is unable to walk more than about 20 feet. He additionally stated that, at this point, appellant is wheelchair-bound. Physical examination showed very poor balance. Appellant was unable to stand erect without support and she was unsafe in any position without the walker or the wheelchair. Physical examination of the legs showed bilateral severe degenerative arthritis which Dr. Blundon stated would eventually require bilateral total knee arthroplasties. Imbalance and bilateral degenerative arthritis of the knee were diagnosed. Dr. Blundon concluded by stating, "we feel that within a reasonable degree of medical certainty, the extra activities, which were not in her job description contributed to her imbalance problems and also with the arthritis of her knee.

In a February 13, 2002 report, Dr. Stephen E. Faust, a Board-certified orthopedic surgeon, advised that appellant had severe arthritis in her knees, predominantly involving the patellofemoral joints. He related that he had advised appellant to avoid climbing and descending steps, not so much because he thought this would necessarily do any great harm, but simply that it would tend to make the symptoms worse to the eventual point where she would be unable to negotiate steps because of pain.

In a February 28, 2002 report, Dr. Ava A. Kaufman, a Board-certified internist, advised that she had been appellant's primary care internist since November 1, 1998. At that time she had presented with significant difficulty with walking and balance. Dr. Kaufman related how

appellant's condition deteriorated to the point where she was almost totally wheelchair-bound. Significant osteoarthritic changes in her knees were noted on examination. Appellant reported severe imbalance and walked with very small, unsteady steps. It was noted that she received rehabilitative care and, when discharged, was still very weak, very unstable and unable to ambulate without a walker or wheelchair. Dr. Kaufman advised that appellant attributed the deterioration of her gait and balance to excessive stair climbing during her employment with the employing establishment.

By decision dated July 24, 2002, an Office hearing representative affirmed the prior decision after finding that all the medical evidence of record failed to supply sufficient factual and medical evidence with which to determine whether appellant's medical condition(s) were in any way causally related to the factors of her federal employment.

An employee seeking benefits under the Federal Employees' Compensation Act<sup>2</sup> has the burden of establishing that the essential elements of 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.<sup>3</sup> 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.<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 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.<sup>5</sup>

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,<sup>6</sup> must be one of reasonable medical certainty<sup>7</sup> and must be supported by medical rationale explaining the

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<sup>2</sup> 5 U.S.C. §§ 8101-8193.

<sup>3</sup> *Elaine Pendleton*, 40 ECAB 1143 (1989).

<sup>4</sup> *Victor J. Woodhams*, 41 ECAB 345 (1989).

<sup>5</sup> *Id.*

<sup>6</sup> *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

<sup>7</sup> *See Morris Scanlon*, 11 ECAB 384-85 (1960).

nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.<sup>8</sup>

Appellant failed to supply any detailed explanation of how the employment factors she believed caused or contributed to her claimed condition of “imbalance.” She generally attributed her condition of imbalance to excessive climbing of stairs, which she alleged, was not in her job duties. The exact duration of the activities was not noted. From appellant’s own narrative, the Board notes that her climbing of stairs when dealing with the Puse Tube appears to have been for a short duration (a couple of days) as she was later reassigned to another task after she complained to her supervisor. Additionally, the medical evidence submitted in support of appellant’s claim failed to either mention any work factors or address causal relationship. If causal relationship was mentioned, the reports were not based on an accepted factual basis on which to determine whether a nexus existed between appellant’s conditions and factors of her federal employment.<sup>9</sup> Although Dr. Blundon, in his report of November 1, 2001, indicated that appellant was involved in a lot of climbing in her job in 1992 and indicated that she was having “imbalance” and diagnosed bilateral degenerative arthritis of the knee. Dr. Blundon failed to supply any rationale or explanation in his opinion that the “extra activities, which were not required in her position, contributed to her imbalance problems and also with the arthritis of her knee.” Although Dr. Kaufman, in her medical report of February 28, 2002, indicated that appellant attributed the deterioration of her gait and balance to excessive stair climbing during her employment, she failed to provide her own opinion regarding causal relationship. Additionally, although other physicians of record had diagnosed appellant as having degenerative arthritis of her knees, none of those physicians rendered an opinion as to the cause of such condition or whether appellant’s employment activities may have aggravated her knee condition. Accordingly, the medical reports of record fail to provide a probative, rationalized opinion that appellant’s imbalance and her knee conditions were caused or aggravated by factors or conditions of her federal 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 her condition was caused, precipitated or aggravated by her employment is sufficient to establish causal relationship. The mere fact that a disease or condition manifests itself or worsens during a period of employment<sup>10</sup> or that work activities produce symptoms revelatory of an underlying condition<sup>11</sup> does not raise an inference of causal relation between the condition and the employment factors. Neither the fact that appellant’s condition became

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<sup>8</sup> See *William E. Enright*, 31 ECAB 426, 430 (1980).

<sup>9</sup> The Board notes that the Office hearing representative properly noted that although the medical evidence supported that appellant had a back problem and an imbalance problem, none of the physicians attempted to relate such conditions to factors of appellant’s federal employment or offered any medical rationale as to how or why such conditions developed.

<sup>10</sup> See *supra* note 6.

<sup>11</sup> *Richard B. Cissel*, 32 ECAB 1910, 1917 (1981).

apparent during a period of employment nor the belief that the condition was caused, precipitated or aggravated by her employment is sufficient to establish a causal relationship.<sup>12</sup>

Causal relationship must be established by rationalized medical opinion evidence.<sup>13</sup> The Office advised appellant of the type of evidence required to establish her claim; however, appellant failed to submit such evidence.

Accordingly, as appellant failed to submit any probative, rationalized medical evidence in support of a causal relationship between her claimed conditions and factors or incidents of employment, the Office properly denied her claim for compensation on the basis that she had failed to establish fact of injury.

The decision of the Office of Workers' Compensation Programs dated July 24, 2002 is affirmed.

Dated, Washington, DC  
April 7, 2003

Colleen Duffy Kiko  
Member

David S. Gerson  
Alternate Member

Willie T.C. Thomas  
Alternate Member

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<sup>12</sup> *Robert G. Morris*, 48 ECAB 238-39 (1996).

<sup>13</sup> *See supra* note 4.