

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of TIMOTHY HERON and U.S. POSTAL SERVICE,  
POST OFFICE, Newark, DE

*Docket No. 03-719; Submitted on the Record;  
Issued August 14, 2003*

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DECISION and ORDER

Before COLLEEN DUFFY KIKO, DAVID S. GERSON,  
MICHAEL E. GROOM

The issue is whether appellant's federal employment aggravated his preexisting diabetic condition.

On December 21, 1999 appellant, then a 39-year-old distribution clerk, filed a notice of occupational disease and claim for compensation (Form CA-2) alleging that working the night shift caused him to go into diabetic shock. Appellant has a medical history of Type 1 diabetes mellitus for over 20 years, with diabetic nephropathy and proteinuria, diabetic retinopathy, chronic fatigue, hypercholesterolemia and hypothyroidism carpal tunnel syndrome and poorly controlled hypertension. Appellant did not stop work.

Appellant submitted a November 9, 2001 report from Dr. William Jaffee, a specialist in metabolic and endocrine disorders. Dr. Jaffee wrote that he has been treating appellant for insulin-dependent diabetes for 23 years and that appellant had trouble controlling his sugar levels when working the night shift due to the variable timing of meals and exercise compared to days when he was off work. Dr. Jaffee noted that appellant also developed hypertension and other complications of diabetes and opined that it would be advantageous to appellant if he could be switched back to day shifts.

In a May 17, 1999 progress note, Dr. Jaffee wrote that appellant "is under my care for Type 1 diabetes mellitus. Sugars are labile. It is safer and more effective to treat this diabetes if he works day shift, rather than later shifts that alter time of meals, insulin dosing and exercise." In an October 1, 1999 progress note, Dr. Jaffee wrote that appellant "must continue to do day shifts work to avoid complicating diabetes control." In a November 4, 1999 report, Dr. Jaffee wrote that appellant has a "labile Type 1 diabetes mellitus and hypertension. Swing shifts and working nights worsens control of diabetes and hypertension. Need to start work between 7:00 to 9:00 a.m. and work no more than 12 hours. His diabetes and hypertension are permanent conditions and will require these hours the rest of his working life."

In an undated personal statement appellant wrote that he had Type 1 diabetes since March 1975 and hypertension since 1995. In April 1998 he was awarded a job on the midnight shift and began having trouble controlling his sugar levels and blood pressure. After six months on the night shift, he was taken to an emergency room for diabetic shock. Appellant indicated that he must maintain a consistent routine in all aspects of his life and the constant change of his routine from working night shifts to day shifts aggravate his preexisting condition.

In a February 24, 2000 report, the district medical adviser wrote that the aggravation appellant experienced was because he did not keep his nonwork days consistent with his workdays. He agreed that a strict schedule was essential to good blood sugar control in diabetes. However, "alternating or rotating shifts are not indicated for diabetes, but a straight shift is -- whether it be a 1<sup>st</sup>, 2<sup>nd</sup> or 3<sup>rd</sup> shift as long as it is permanent."

In a December 28, 2000 decision, the Office of Workers' Compensation Programs denied appellant's claim finding that he had not established that his condition was caused by the performance of his federal duties.

In a December 5, 2001 letter, appellant requested reconsideration. In support of his request, appellant submitted a July 24, 2000 report from Dr. Jaffee who wrote that appellant's medical problems required that he work a day shift because he needed regular meals and would need to check his blood sugar and take insulin before meals. In a January 22, 2001 report, Dr. Jaffee wrote that appellant may be reassigned to night shift, which would be very difficult given his other health problems. In an April 5, 2001 report, Dr. Jaffee wrote that appellant "is experiencing stress at work because of working swing shifts; this is deleterious to his diabetes and blood pressure control." In a September 10, 2001 progress note, Dr. Jaffee wrote that appellant's control of his blood pressure and diabetes was compromised "when he gets out of schedule. It is helpful for him to work a fixed schedule to facilitate timing with meals and taking medication."

In a March 11, 2002 report, Dr. Jaffee wrote that "practical experience has shown that [working night shifts] is deleterious to blood pressure and diabetes control. Blood sugar monitoring records have consistently been less acceptable when he is not working day shift. It is not reasonable to expect [appellant] to have the same schedule for meals and sleep on nonwork days since he is required to interact with family members on nonwork days."

In a March 27, 2002 report, Dr. Ripu Hundal, a Board-certified endocrinologist, wrote that without further observation and testing he was not able to determine if appellant could work a fixed evening schedule. He added that overall it makes sense to have a fixed timing of insulin shots and meals, so as to avoid wide fluctuations in blood sugars and avoid severe hypoglycemic episodes.

In a June 14, 2002 email to the Office, the employing establishment argued that appellant misrepresented his work history to his doctors by telling them that he worked "swing shifts." According to the employing establishment, appellant has worked fixed schedules, either evening or daytime.

In a September 27, 2002 decision, the Office denied modification, finding that the medical evidence insufficient to establish his condition was caused by his federal employment. In a December 23, 2002 letter, appellant requested reconsideration arguing that the term “swing shift” was not a reference to changing shifts but to the second shift between the day and midnight shifts.

In a January 23, 2003 decision, the Office denied modification of appellant’s claim, finding that the medical evidence failed to establish that working a fixed night schedule would aggravate his conditions and that medical conditions resulting from difficulty adjusting to nonwork days did not arise in the performance of his federal duties.

The Board finds that appellant has not established that an aggravation of his medical conditions in the performance of his federal duties.

An employee seeking benefits under the Federal Employees’ Compensation Act<sup>1</sup> 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 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>2</sup> These are the essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.<sup>3</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. The medical evidence required to establish a causal relationship 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.<sup>4</sup>

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<sup>1</sup> 5 U.S.C. §§ 8101-8193.

<sup>2</sup> *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

<sup>3</sup> *See Delores C. Ellyett*, 41 ECAB 992, 994 (1990); *Ruthie M. Evans*, 41 ECAB 416, 423-25 (1990).

<sup>4</sup> *Victor J. Woodhams*, 41 ECAB 345, 351-52 (1989).

In the present case, appellant has not submitted sufficient medical evidence to establish an aggravation of his diabetes or hypertension causally related to working the night shift. Dr. Jaffee's numerous reports are clear that appellant requires a fixed and regular schedule to facilitate consistent monitoring of his blood sugar levels and blood pressure and to take his meals and insulin at the same time daily. The reports emphasized that the key factor to appellant maintaining his health is that he monitor his systems and take meals and medicine at the same time each day, not that he work a day shift exclusively. Dr. Jaffee, however, provided insufficient explanation as to how appellant's work duties on the night shift caused or contributed to the aggravation of his diabetes and hypertension conditions. The medical reports are not well rationalized as to how appellant's employment caused an aggravation of his preexisting conditions, do not describe the nature of any such aggravation or specifically address any periods of disability. The medical evidence of record is not sufficient to sustain appellant's burden of proof.

The decisions of the Office of Workers' Compensation Programs dated January 23, 2003 is hereby affirmed.

Dated, Washington, DC  
August 14, 2003

Colleen Duffy Kiko  
Member

David S. Gerson  
Alternate Member

Michael E. Groom  
Alternate Member