

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of DAVID LEBRON and U.S. POSTAL SERVICE,  
POST OFFICE, Philadelphia, PA

*Docket No. 02-1462; Submitted on the Record;  
Issued February 5, 2003*

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DECISION and ORDER

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

The issue is whether appellant has a right knee and bilateral foot conditions causally related to factors of his employment.

On January 3, 2002 appellant, then a 51-year-old city carrier, filed an occupational disease claim (Form CA-2) alleging that on December 31, 2001 he first realized that the pain in his feet and right knee was due to his federal employment.

In a January 3, 2002 duty status report (Form CA-17), appellant's physician<sup>1</sup> diagnosed right knee and foot sprain which the physician noted occurred while appellant was walking and delivering mail. He was released to duty on January 7, 2002 with restrictions.

In a letter to appellant dated February 1, 2002, the Office of Workers' Compensation Programs requested that he submit additional information in support of his claim, including a medical report and opinion from a physician, supported by medical reasons, describing the history of the alleged work incident and indicating how the reported work incident caused or aggravated the claimed conditions. The Office gave appellant 30 days to submit additional evidence. No medical evidence was received.

By decision dated April 17, 2002, the Office denied appellant's claim on the basis that he failed to establish that his condition was causally related to factors of his employment. The Office noted that appellant had failed to respond to the February 1, 2002 letter or submit any additional evidence.<sup>2</sup>

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<sup>1</sup> The physician's signature is illegible so that the name cannot be deciphered.

<sup>2</sup> Subsequent to the issuance of this decision, appellant submitted medical evidence. The Board may not consider evidence for the first time on appeal that was not before the Office at the time it issued its final decision in the case. 20 C.F.R. § 501.2(c).

The Board finds that appellant has not established that he has a bilateral foot condition causally related to factors of his employment.

An employee seeking benefits under the Federal Employees' Compensation Act<sup>3</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>4</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>5</sup>

To establish that an injury was sustained in the performance of duty, appellant must submit the following: (1) medical evidence establishing the presence or existence of the condition for which compensation is claimed; (2) a factual statement identifying employment factors alleged to have caused or contributed to the 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>6</sup> The medical evidence required to establish causal relationship, generally is 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 appellant'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 appellant.<sup>7</sup>

The mere fact that a disease 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 disease became apparent during a period of employment, nor the belief of appellant that the disease was caused or aggravated by employment conditions, is sufficient to establish causal relation.<sup>8</sup>

In the present case, appellant did not submit any medical evidence in support of his claim for compensation based on his claimed bilateral foot condition. The Office advised appellant of the type of evidence required to establish his claim, however, appellant failed to submit such

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<sup>3</sup> 5 U.S.C. §§ 8101-8193.

<sup>4</sup> *Allen C. Hundley*, 53 ECAB \_\_\_\_ (Docket No. 02-107, issued May 17, 2002).

<sup>5</sup> *Victor J. Woodhams*, 41 ECAB 345 (1989).

<sup>6</sup> *Donna L. Mims*, 53 ECAB \_\_\_\_ (Docket No. 01-1835, issued August 13, 2002)

<sup>7</sup> *Patricia J. Glenn*, 53 ECAB \_\_\_\_ (Docket No. 01-65, issued October 12, 2001); *Claudio Vazquez*, 52 ECAB \_\_\_\_ (Docket No. 01-416, issued August 30, 2001).

<sup>8</sup> *Lucrecia M. Nielsen*, 42 ECAB 583, 593 (1991); *Joseph T. Gulla*, 36 ECAB 516, 519 (1985).

evidence. He failed to submit a rationalized medical opinion relating the cause of the alleged conditions to factors of his federal employment.<sup>9</sup> The only evidence in the record at the time of the April 17, 2002 decision was the January 3, 2002 CA-17 form, but this form did not contain a probative, rationalized medical opinion indicating that appellant's right knee and foot conditions were causally related to factors of his federal employment.

Accordingly, as appellant failed to submit any probative, rationalized medical evidence in support of a causal relationship between his claimed condition and factors or incidents of employment, the Office properly denied appellant's claim for compensation.

The April 17, 2002 decision of the Office of Workers' Compensation Programs is hereby affirmed.<sup>10</sup>

Dated, Washington, DC  
February 5, 2003

Colleen Duffy Kiko  
Member

David S. Gerson  
Alternate Member

Willie T.C. Thomas  
Alternate Member

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<sup>9</sup> *William C. Thomas*, 45 ECAB 591 (1994).

<sup>10</sup> The record contains a September 12, 2002 decision, which the Office issued after appellant filed his appeal with the Board. It is well established that the Board and the Office may not have concurrent jurisdiction over the same case and those Office decisions that change the status of the decision on appeal are null and void. *Douglas E. Billings*, 41 ECAB 880, 895 (1990). The September 12, 2002 decision vacating and remanding for further development is, therefore, null and void. The Board notes that appellant timely filed a request for a hearing so that there is an outstanding request for a review of the written record.