

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ANTHONY L. APPLEWHITE and U.S. POSTAL SERVICE,
POST OFFICE, Memphis, TN

*Docket No. 02-1046; Submitted on the Record;
Issued January 16, 2003*

DECISION and ORDER

Before ALEC J. KOROMILAS, COLLEEN DUFFY KIKO,
MICHAEL E. GROOM

The issue is whether appellant sustained an injury to his back causally related to factors of his federal employment.

On August 24, 2001 appellant, then a 44-year-old mailhandler, filed a notice of occupational disease and claim for compensation (Form CA-2), alleging that he suffered from back pain as a result of his federal employment. In support of his claim, appellant submitted an attending physician's statement by Dr. Hal Bishop, a Board-certified orthopedic surgeon, dated August 24, 2001. Dr Bishop found that appellant sustained a low back injury and was limited to no repetitive lifting or bending and no lifting greater than 10 pounds for 4 weeks. He referred appellant for physical therapy.

By letter dated September 5, 2001, the Office of Workers' Compensation Programs requested that appellant submit further information, including a comprehensive medical report from his treating physician which described his symptoms, results of examinations and tests, diagnosis, treatment provided, effect of treatment and the doctor's opinion as to the cause of appellant's condition with medical reasons. Appellant responded by letter dated September 30, 2001. He indicated that he suffered a similar injury earlier in his career and that his work duties included repetitive heavy lifting, pulling, pushing, bending and stooping. He also submitted Dr. Bishop's statement of September 20, 2001 indicating that appellant sustained a knee injury and that he was to do no lifting greater than 25 pounds. Appellant further submitted physical therapy notes.

By decision dated November 15, 2001, the Office denied appellant's claim. The Office found that, while the evidence supported that appellant experienced the claimed employment factor, there was insufficient medical evidence that a condition had been diagnosed. Accordingly, appellant's claim was denied as he had not met the requirements for establishing that he sustained an injury as alleged.

By letter dated December 4, 2001, appellant requested reconsideration and submitted a August 24, 2001 medical report by Dr. Bishop, who diagnosed lumbosacral, sacroiliac strain and quadriceps atrophy and recommended physical therapy. He also submitted a note dated September 20, 2001, which noted that appellant was “much better with his lumbosacral and sacroiliac strain.” Finally, appellant also submitted medical notes from Dr. Sriranga V. Prasad, a Board-certified internist, indicating that he treated appellant on August 20 and 22, 2001 for leg pain.

By decision dated January 25, 2002, the Office modified its earlier decision in that it determined that Dr. Bishop’s reports established that appellant had been diagnosed with lumbosacral and sacroiliac strain. However, the Office found that appellant had not submitted medical evidence sufficient to show that this diagnosed medical condition was caused by work factors.

The Board finds that appellant did not meet his burden of proof to establish that he sustained an injury to his back due to factors of his employment.

An employee seeing benefits under the Federal Employees’ Compensation Act¹ 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.² These are the essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.³

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.⁴ The medical evidence required to establish a causal relationship, 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 medical certainty, and must be supported by medical rationale

¹ 5 U.S.C. §§ 8101-8193.

² *Thomas L. Hogan*, 47 ECAB 323 (1996); *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

³ *See Delores C. Ellyett*, 441 ECAB 992, 994 (1990); *Ruthie M. Evans*, 41 ECAB 1143, 1145 (1989).

⁴ *Dennis M. Mascarenas*, 49 ECAB 215, 217 (1997).

explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.⁵

In the instant case, appellant has submitted insufficient medical evidence to establish that factors of his employment caused a back condition. Dr. Bishop diagnosed lumbosacral and sacroiliac strain and quadriceps atrophy, gave appellant lifting restrictions and recommended physical therapy two to three times a week. However, he provided no opinion relating appellant's physical condition with his work environment. Similarly, Dr. Prasad merely noted that he treated appellant for leg pain but gave no opinion on causation. Therefore, the medical evidence is insufficient to meet appellant's burden of proof.

An award of compensation may not be based on surmise, conjecture or speculation, or appellant's belief of causal relationship. The mere fact that a disease or condition manifests itself or worsens during a period of employment or that work activities produce symptoms revelatory of an underlying condition does not raise an inference of causal relationship between the condition and the employment factors. Neither the fact that appellant's condition became apparent during a period of employment nor the belief that his condition was caused, precipitated or aggravated by his employment is sufficient to establish causal relationship.⁶

The decisions of the Office of Workers' Compensation Programs dated January 25, 2002 and November 15, 2001 are hereby affirmed.

Dated, Washington, DC
January 16, 2003

Alec J. Koromilas
Member

Colleen Duffy Kiko
Member

Michael E. Groom
Alternate Member

⁵ *Id.*

⁶ *Victor J. Woodhams*, 41ECAB 345, 352 (1989).