

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of BEVERLY BODY and DEPARTMENT OF HEALTH & HUMAN SERVICES,  
SOCIAL SECURITY ADMINISTRATION, Goldsboro, NC

*Docket No. 03-835; Submitted on the Record;  
Issued July 22, 2003*

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DECISION and ORDER

Before ALEC J. KOROMILAS, DAVID S. GERSON,  
MICHAEL E. GROOM

The issue is whether appellant has established that she sustained an injury in the performance of duty.

On October 8, 2002 appellant, then a 48-year-old claims representative, filed an occupational disease claim alleging that on March 25, 2002 she realized that her ruptured cervical disc was caused by repetitive motion and pulling file cabinets at work. She noted that on September 3, 2002 she first became aware of her condition. Appellant stated that she was diagnosed with a bulging disc in 1999 and she was given modified work in a department that did not require repetitive motion. She indicated that on March 25, 2002 she was moved to her current position, which involved an increase in repetitive motion and pulling out of date and heavy file cabinets. She experienced pain after being placed in this position until her surgery on September 3, 2002.<sup>1</sup>

Appellant's claim was accompanied by a statement from the employing establishment controverting her claim, a description of her position and medical evidence concerning her work and physical restrictions.

By letter dated November 25, 2002, the Office of Workers' Compensation Programs requested that appellant submit additional medical and factual evidence.

In a decision dated January 3, 2003, the Office found the evidence of record insufficient to establish that appellant sustained an injury in the performance of duty.

The Board finds that appellant has failed to establish that she sustained an injury in the performance of duty.

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<sup>1</sup> The record indicates that appellant underwent surgery on September 3, 2002, consisting of anterior cervical discectomy at C3-4. The postoperative diagnosis was C3-4 ruptured disc.

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

Appellant did not submit sufficient medical evidence to establish that her ruptured cervical disc or the need for surgery arose from her employment. Appellant has alleged that she sustained a ruptured disc in her cervical spine as a result of repetitive motion and pulling file cabinets at work.

Appellant submitted numerous reports, disability certificates, treatment notes, laboratory and diagnostic studies and operative reports from her treating physicians. She submitted the treatment notes and reports of a physician from the La Grange Medical Center whose signature is illegible that cover the period October 14, 1996 through March 26, 2002, a March 22, 1999 report of Dr. Karlus C. Artis, a general practitioner, laboratory reports, diagnostic studies and surgery reports covering the period April 16, 1999 through September 13, 2002, the reports and treatment notes of Dr. L. Davis Frederick, a Board-certified orthopedic surgeon, covering the period September 7 through November 29, 1999, a November 5, 1999 report of Dr. Daniel T. Poole, a neurologist, a prescription dated March 26, 2002 and the reports and disability

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<sup>2</sup> 5 U.S.C. §§ 8101-8193.

<sup>3</sup> *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

<sup>4</sup> *See Delores C. Ellyett*, 41 ECAB 992, 994 (1990); *Ruthie M. Evans*, 41 ECAB 416, 423-25 (1990).

<sup>5</sup> *Victor J. Woodhams*, 41 ECAB 345, 351-52 (1989).

certificates of Dr. F. Douglas Jones, a Board-certified neurologist, covering the period May 9 through October 28, 2002. However, none of this evidence includes a physicians narrative opinion addressing the causal relationship between her cervical condition and factors of her employment. Appellant's burden of proof includes the necessity to submit rationalized medical evidence based on a complete factual and medical background showing a causal relationship.<sup>6</sup>

Appellant has failed to submit any rationalized medical evidence based on an accurate factual background establishing that she sustained an injury causally related to factors of her federal employment. The Board finds that appellant has failed to discharge her burden of proof.

The January 3, 2003 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, DC  
July 22, 2003

Alec J. Koromilas  
Chairman

David S. Gerson  
Alternate Member

Michael E. Groom  
Alternate Member

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<sup>6</sup> See *Calvin E. King*, 51 ECAB 394 (2000).