

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of ROXANNE L. SCHNELLE and U.S. POSTAL SERVICE,  
POST OFFICE, Cincinnati, OH

*Docket No. 03-1466; Submitted on the Record;  
Issued July 29, 2003*

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DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,  
A. PETER KANJORSKI

The issue is whether appellant's diagnosed cervical condition is causally related to her federal employment.

On June 7, 2001 appellant, then a 45-year-old clerk, filed an occupational disease claim asserting that her herniated disc was a result of her federal employment.<sup>1</sup> The Office of Workers' Compensation Programs requested additional information, including a comprehensive medical report from her treating physician describing the doctor's opinion, with medical reasons, on the cause of the diagnosed condition. The Office advised as follows: "Specifically, if your doctor feels that exposure or incidents in your Federal employment contributed to your condition, an explanation of how such exposure contributed should be provided."

In a decision dated September 17, 2001, the Office denied appellant's claim on the grounds that she did not establish fact of injury. The Office found that, while the initial evidence of record supported that she actually experienced the claimed employment factor, the evidence failed to establish a medical condition diagnosed in connection there with.

Appellant submitted an unsigned report dated June 7, 2000. The report states in pertinent part:

"She comes with consultant. We went over the history. She [had] no episode or history of injury at work but, in the course of employment, the [employing establishment] had done all the things that normally produce problem with the cervical spine. She may have a condition related to her work although not a work injury. This is called an occupational-related medical condition. I think that she suits that category best."

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<sup>1</sup> The record indicates that appellant filed two other claims, one claim for left hand tenosynovitis (OWCP File No. 090461036), the other a duplicate claim for cervical disc displacement with radiculopathy (OWCP File No. 092019551).

On November 27, 2001 appellant's family practitioner, Dr. Pamela H. Schaible, reported as follows:

“[Appellant] has been my patient since 1996. In December 1999 she came in with left arm pain. This was originally diagnosed as tend[i]nitis, but as standard conservative therapy proved unsuccessful, further tests were performed and we found eventually that what became neck and bilateral arm pain was due to a C5 herniated disc, which will need surgical treatment. I feel that the problem is related to [appellant's] job at the [employing establishment], where for years she had been bending, twisting, reaching and lifting heavy items. I feel that her prognosis is good to eventually return to work with the proper treatment.”

Appellant underwent surgery for herniated discs at C4-5 and C5-6 on November 14, 2001. The neurosurgeon, Dr. William D. Tobler, completed a form report on December 29, 2001 indicating with an affirmative mark that appellant's diagnosed cervical disc displacement with radiculopathy was due to chronic strain at work from lifting, pulling and carrying.

An Office medical consultant, Dr. Andrea Young, reviewed appellant's case record and reported on June 17, 2002 that a cervical herniated disc could be aggravated or accelerated by the bending, twisting, reaching, pulling and pushing required of appellant's job, but there was insufficient information to determine if the condition was caused by work factors. There was also insufficient information to determine if the surgery was warranted as there was no clear documentation of the time course or treatments given.

On January 11, 2003 appellant requested reconsideration, noting that competent medical evidence was submitted but never reviewed and considered.

In a decision dated March 12, 2003, the Office reviewed the merits of appellant's claim and denied modification of its prior decision.<sup>2</sup> The Office found that the medical evidence lacked any clear discussion on the causal relationship, or medical connection, between factors of her federal employment and her cervical condition. Appellant submitted no substantial medical evidence, including a detailed narrative report outlining the history of the injury, the objective findings and a medical explanation of the causal relationship between the work injury and the alleged condition.

Appellant, through her attorney, appeals the Office's March 12, 2003 decision.

The Board finds that the evidence is insufficient to establish that appellant's diagnosed cervical condition is causally related to her federal employment.

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

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<sup>2</sup> The Office reviewed the merits of appellant's claim in light of confusion caused by a duplicate claim filed in March 2002, which was doubled with the current claim.

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 evidence required to establish causal relationship is rationalized medical opinion evidence, based upon a complete and accurate factual and medical background, showing a causal relationship between the claimed conditions and her federal employment. Neither the fact that the condition became manifest during a period of federal employment, nor the belief of appellant that the condition was caused or aggravated by her federal employment, is sufficient to establish causal relation.<sup>3</sup>

The duties appellant performed as a postal clerk are not in dispute. The Office accepts that appellant has a diagnosed herniated cervical disc condition and that appellant has alleged specific duties which she claims caused the condition. The question for determination is whether those duties caused or aggravated her diagnosed cervical condition.

Causal relationship is a medical issue,<sup>4</sup> and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence that includes a physician's rationalized opinion on whether there is a causal relationship between the claimant's diagnosed condition and the established incident or factor of employment. The opinion of the physician must be based on a complete factual and medical background of the claimant,<sup>5</sup> must be one of reasonable medical certainty<sup>6</sup> and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the established incident or factor of employment.<sup>7</sup>

The medical opinion evidence submitted in this case is supportive of appellant's claim but is insufficient to establish the critical element of causal relationship. The June 7, 2000 note indicating that appellant "may have a condition related to her work although not a work injury" has no probative value because it is unsigned and lacks proper identification.<sup>8</sup>

On November 27, 2001 Dr. Schaible, appellant's family practitioner, reported that she felt that appellant's C5 herniated disc was related to her job at the employing establishment, "where for years she had been bending, twisting, reaching and lifting heavy items." The mere fact that a condition manifests itself or worsens during a period of federal employment, however,

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<sup>3</sup> *Victor J. Woodhams*, 41 ECAB 345 (1989).

<sup>4</sup> *Mary J. Briggs*, 37 ECAB 578 (1986).

<sup>5</sup> *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

<sup>6</sup> *See Morris Scanlon*, 11 ECAB 384, 385 (1960).

<sup>7</sup> *See William E. Enright*, 31 ECAB 426, 430 (1980).

<sup>8</sup> *Merton J. Sills*, 39 ECAB 572 (1988).

raises no inference of causal relationship between the two.<sup>9</sup> Dr. Schaible did not review her treatment of appellant since 1996; she offered no history or clinical findings during those years to support the opinion she expressed. Without a more concrete medical basis and sound medical reasoning, her opinion, based solely on a general description of appellant's duties, has little probative value on the issue of causal relationship.

The December 29, 2001 form report of Dr. Tobler, appellant's neurosurgeon, also has little probative value because he did little more than check a box marked "yes."<sup>10</sup> Appellant's burden includes the necessity of furnishing an affirmative opinion from a physician who supports his conclusion with sound medical reasoning.

Finally, the June 17, 2002 report of Dr. Young, the Office medical consultant, acknowledged merely the possibility that appellant's cervical herniated disc could have been aggravated or accelerated by the bending, twisting, reaching, pulling and pushing required of her job. Although the medical opinion of a physician supporting causal relationship does not have to reduce the cause or etiology of a disease or condition to an absolute medical certainty, neither can such opinion be speculative or equivocal.<sup>11</sup>

Because appellant has not submitted a comprehensive and well-reasoned medical opinion, based on an accurate background, explaining how it can be determined with reasonable medical certainty that her duties as a clerk caused or aggravated her diagnosed cervical condition, she has not met her burden of proof to establish the element of causal relationship.

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<sup>9</sup> *Steven R. Piper*, 39 ECAB 312 (1987). That an employee suffers a heart attack at work, for example, does not in itself imply that the work caused or contributed to the attack. Mere temporal relationships are thus distinguished from relationships of causation.

<sup>10</sup> *E.g., Lillian M. Jones*, 34 ECAB 379 (1982).

<sup>11</sup> *Philip J. Deroo*, 39 ECAB 1294 (1988); *Jennifer Beville*, 33 ECAB 1970 (1982) (statement of a Board-certified internist that the employee's complaints "could have been" related to her work injury was speculative and of limited probative value).

The March 12, 2003 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, DC  
July 29, 2003

David S. Gerson  
Alternate Member

Willie T.C. Thomas  
Alternate Member

A. Peter Kanjorski  
Alternate Member