

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of MYRNA ROBLES and DEPARTMENT OF VETERANS AFFAIRS,  
VETERANS ADMINISTRATION MEDICAL CENTER, San Juan, PR

*Docket No. 03-492; Submitted on the Record;  
Issued June 9, 2003*

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DECISION and ORDER

Before ALEC J. KOROMILAS, COLLEEN DUFFY KIKO,  
DAVID S. GERSON

The issue is whether appellant has established an asthma condition causally related to factors of her federal employment.

On April 4, 2002 appellant, then a 59-year-old assistant chief of canteen services, filed an occupational disease claim (Form CA-2), alleging that on January 25, 2002 she realized that her bronchial asthma was related to temperature changes, humidity, dust, mold, fumes and other exposures at her employment.<sup>1</sup> Appellant stopped work on January 29, 2002.

Dr. Rene Dietrich, Board-certified in nuclear medicine, interpreted a February 16, 2001 computerized tomography (CT) scan and reported an "irregular density in the lingual of the left lung" which the physician stated "could represent and (sic) infiltrate or fibrosis."

In a February 27, 2002 pulmonary function report, Dr. Mario A. Ramos, an attending Board-certified internist with a subspecialty certificate in pulmonary medicine, diagnosed severe obstructive airways disease. He reported reduced values in FVC, FEV<sub>1</sub>, FEV<sub>1</sub>/FVC ratio which indicated airway obstruction and that there was no significant response subsequent to bronchodilators.

In a March 16, 2001 CT scan, Dr. Dietrich noted that appellant's lungs were clear and there was no evidence of infiltrates or pulmonary nodules. He noted that "compared to a previous CT scan done on February 16, 2001, the described irregular density in the lingual is not identified now compatible with resolution of the infiltrate."

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<sup>1</sup> The record contains evidence that appellant filed two prior claims alleging that her asthma was due to her employment. On January 29, 2002 she filed a traumatic injury claim alleging that her asthma was due to an injury sustained on January 25, 2002 and on November 17, 1995 she filed a traumatic injury claim alleging that her frying fritters and going to a cooler on November 13, 1995 caused her bronchial asthma.

In a March 7, 2002 report, Dr. Ramos diagnosed asthma due to appellant's employment. He noted that appellant informed him that it was dusty, moldy and humid at her employment and that she had been exposed to cold temperatures and textile fabrics.

By letter dated May 14, 2002, the Office of Workers' Compensation Programs informed appellant that the evidence of record was insufficient to support her claim and advised her as to the type of evidence required to support her claim.

In a report dated June 7, 2002, Dr. Ramos diagnosed occupational asthma which he attributed to her employment. Specifically, he attributed it to her "progressive sensitization over the years to dust, molds and textile products encountered at her work." He further opined that these exposures "as well as abrupt changes in temperature are well known triggers for [b]ronchial [a]sthma exacerbation's (sic)" and that "workday aggravation of symptoms is characteristic of [o]ccupational [a]sthma."

Dr. Ramos, in a June 17, 2002 letter, reviewed the employing establishment's offer of reasonable accommodation and concluded that she was permanently disabled. He concluded that an accommodation would not work due to appellant's "poorly controlled occupational asthma with multiple documented in work exacerbations." Dr. Ramos also opined that "there is a high possibility that the environmental conditions of your work building may be triggering her exacerbations (*i.e.*, sick building syndrome)."

In an October 29, 2002 report, the Office medical adviser reviewed the medical evidence and concluded that appellant more than likely had pneumonia than asthma, based upon a review of the two CT scans. He also stated that bronchial asthma could be aggravated by exposure to fumes, mold and other irritants at work. The Office medical adviser opined that appellant was not totally disabled as the February 27, 2002 pulmonary function tests revealed minimal obstructive airways disease which he opined Dr. Ramos failed to consider in his March 7 and June 7, 2002 reports.

By decision dated November 20, 2002, the Office denied appellant's claim on the basis that she failed to establish that her bronchial asthma was causally related to factors of her employment. The Office determined that appellant had not submitted rationalized medical evidence sufficient to establish her claim.

The Board finds that appellant has not established an asthma condition causally related to factors of her federal employment.

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

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<sup>2</sup> 5 U.S.C. §§ 8101-8193.

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 diagnosed condition is causally related to the employment factors identified by the claimant. The medical opinion 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>

With respect to the medical evidence, appellant did not submit a reasoned medical opinion, based on a complete background, on causal relationship between an asthma condition and the employment factors.<sup>6</sup> In support of her claim, she submitted various reports by Dr. Ramos, progress notes, a pulmonary function study and CT scans. The reports from Dr. Ramos are insufficient to establish a causal connection between her asthma and her employment as these reports did not include any explanation of how specific allergens or dust at the employing establishment caused or contributed to her asthma. They are, therefore, of limited probative value because they do not include sufficient medical rationale in support of their conclusions.<sup>7</sup> Moreover, Dr. Ramos' statement that "the environmental conditions of your work building may be triggering her exacerbations (*i.e.*, sick building syndrome)" is speculative and of diminished probative value without additional medical reasoning and explanation. Medical opinions that are speculative and not supported by medical rationale are generally entitled to little probative value and are insufficient to meet appellant's burden of proof.<sup>8</sup>

It is appellant's burden of proof to submit the necessary evidence to establish her claim. The Board finds that appellant has not met her burden in this case.

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<sup>3</sup> *James P. Bailey*, 53 ECAB \_\_\_\_ (Docket No. 01-1993, issued April 11, 2002); *Trina Bornejko*, 53 ECAB \_\_\_\_ (Docket No. 01-1118, issued February 27, 2002); *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

<sup>4</sup> *Daniel J. Overfield*, 42 ECAB 718, 721 (1991).

<sup>5</sup> *Solomon Polen*, 51 ECAB 341 (2000).

<sup>6</sup> *Charles W. Downey*, 54 ECAB \_\_\_\_ (Docket No. 02-218, issued February 24, 2003).

<sup>7</sup> See *Mary Lou Barragy*, 46 ECAB 781 (1995).

<sup>8</sup> *Carolyn F. Allen*, 47 ECAB 240 (1995).

The November 20, 2002 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC  
June 9, 2003

Alec J. Koromilas  
Chairman

Colleen Duffy Kiko  
Member

David S. Gerson  
Alternate Member