

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ROBERTA M. REAMS and U.S. POSTAL SERVICE,
POST OFFICE, Charles City, IA

*Docket No. 03-179; Submitted on the Record;
Issued May 16, 2003*

DECISION and ORDER

Before COLLEEN DUFFY KIKO, DAVID S. GERSON,
MICHAEL E. GROOM

The issue is whether appellant sustained an injury in the performance of duty on or about June 20, 2001, as alleged.

On July 9, 2001 appellant, then a 49-year-old rural carrier, filed a claim asserting that she sustained an injury on June 20, 2001 while reaching out of her postal vehicle to place mail in a mailbox.

Appellant submitted a July 9, 2001 note from Dr. M.J. Turek, an osteopath: "May do light duty -- no lifting over [five] pounds or excessive use of legs due to back and hip pain related to driving as a rural mail carrier."

On August 27, 2002 Dr. David W. Beck, a neurosurgeon, related appellant's history of injury, noted that a magnetic resonance imaging (MRI) scan showed a small disc bulge at L4-5 and stated: "I am not sure this is causing her pain, but it is most likely that it is." On October 3, 2001 Dr. Beck reported as follows:

"She is back to her permanent job and the sitting again bothers her back. When she is not sitting she feels fine. She can[no]t do her job right now because of the sitting involved. I recommend she do a nonsitting job with a 20[-]pound weight restriction. I believe the reason the sitting bothers her is because of a bulging disc. At the present time I restrict her to 20 pounds and make this a permanent restriction."

On January 29, 2002 the Office of Workers' Compensation Programs requested that appellant submit additional information to support her claim, including her physician's opinion, supported by a medical explanation, on how the reported work incident caused or aggravated the claimed injury. The Office explained that this explanation was crucial to appellant's claim.

Appellant submitted a July 5, 2001 report from Dr. Jeff D. Nasstrom, an osteopath. Dr. Nasstrom related that appellant had injured herself five years earlier when she slipped on a patch of ice while delivering mail:

“I do n[o]t have her record and do n[o]t recall it specifically, but that did completely resolve. Although, in the last several months to a year, she has noticed increased problems there. She believes a good deal of this is from her work. She drives on her route. She will drive for six to eight hours a day. She, of course, has to stretch her left leg to reach the pedal, since she needs to fill the mailboxes from her right passenger window. She is constantly moving back and forth across and [sic] seat, reaching the gas pedal and the brake and then back again to fill the mailbox. When she is working, she has the pain. [Appellant] has been off now for two weeks and not doing this activity and she feels good. She has n[o]t had any pain at all. This definitely seems to be a work-related problem. Other than the fall five years ago, she has never had injury to her back in any other way. She denied numbness or tingling into her legs. The pain seems to be along her left buttock mostly, but definitely is exacerbated, as she works all day. She has also begun to notice pain in her right elbow that shoots down into her hand. She thinks this might be also related to her job, since she is constantly moving her elbow back and forth, picking up the mail and putting it in the mailbox. No injury to the elbow. Again, the last two weeks, she has been on vacation and has n[o]t had these problems at all.”

Dr. Nasstrom diagnosed back and hip pain and lateral epicondylitis. He excused appellant from work “since her pain seems definitely to be relieved when she is not working.”

In a decision dated March 6, 2002, the Office denied appellant’s claim on the grounds that the medical evidence failed to establish that her condition was causally related to her employment.

Appellant requested reconsideration and submitted a job description with a picture of how she is positioned in her postal vehicle while delivering mail. She also submitted an April 3, 2002 report from Dr. Beck. He noted that appellant gave a clear history that in June 2001, she was twisting, leaning over putting mail in a mailbox and felt severe pain in her back going into her hip. Dr. Beck reported that appellant had a bulging disc off to the left side that intermittently pressed on the nerve and caused her left hip pain. He explained:

“It is my opinion within a reasonable degree of medical certainty that the work cause is ongoing back pain and hip pain. The twisting and sitting at work aggravates this and I believe within a reasonable degree of medical certainty that her back problems are work related. The MRI [scan] results showing a bulging disc [are] consistent with her symptoms. It is my recommendation, as far as treatment, is to avoid the prolonged sitting at work. I have already described work restrictions, that is limiting her sitting to 10 minutes at a time and 20 pounds lifting.”

In a decision dated July 11, 2002, the Office reviewed the merits of appellant's claim and denied modification of its prior decision. The Office noted that Dr. Beck had not described an injury having occurred on June 20, 2001. The Office also noted that complaints of "pain" describes symptoms associated with an underlying condition but does not establish the existence of an injury-related condition.

Appellant again requested reconsideration. She reviewed her history of injury and medical care and submitted a March 13, 2002 report from Dr. Beck, who stated: "By history she had no back pain up until she was reaching in June of 2001 and felt a snap in her back. I do think this is probably the cause of her back pain." Appellant also submitted a July 30, 2002 report from Dr. Beck: "[Appellant] hurt her back at work on June 20, 2001 while leaning and twisting putting mail in a [mail]box. This is clearly a work[-]related injury and when the back problem started." Finally, appellant submitted general information about back pain and prolapsed or herniated discs.

In a decision dated October 2, 2002, the Office reviewed the merits of appellant's claim and denied modification of its prior decision. The Office found that objective evidence of a worsening in the actual bulging disc was needed along with a medical opinion to explain how and, which duties of appellant's position worsened the disc condition.

The Board finds that appellant has not met her burden of proof to establish that she sustained an injury in the performance of duty on or about June 20, 2001, as alleged.

An employee seeking benefits under the Federal Employees' Compensation Act¹ has the burden of proof to establish the essential elements of her claim. When an employee claims that she sustained an injury in the performance of duty, she must submit sufficient evidence to establish that she experienced a specific event, incident or exposure occurring at the time, place and in the manner alleged. Appellant must also establish that such event, incident or exposure caused an injury.²

The Office does not dispute that on or about June 20, 2001 appellant reached out of her postal vehicle to place mail in a mailbox. Appellant has met her burden to establish that she experienced a specific event, incident or exposure occurring at the time, place and in the manner alleged. The question for determination is whether this event or incident caused an injury.

Causal relationship is a medical issue,³ 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

¹ 5 U.S.C. §§ 8101-8193.

² See *Walter D. Morehead*, 31 ECAB 188, 194 (1979) (occupational disease or illness); *Max Haber*, 19 ECAB 243, 247 (1967) (traumatic injury). See generally *John J. Carlone*, 41 ECAB 354 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

³ *Mary J. Briggs*, 37 ECAB 578 (1986).

factual and medical background of the claimant,⁴ must be one of reasonable medical certainty⁵ 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.⁶

The medical opinion evidence in this case, while supportive of appellant's claim, is insufficient to discharge appellant's burden of proof. On July 9, 2001 Dr. Turek, an osteopath, stated that appellant could do light duty with no lifting over five pounds or excessive use of the legs "due to back and hip pain related to driving as a rural mail carrier." He gave no firm diagnosis and offered no medical rationale for relating appellant's pain to her federal employment.⁷

In his July 5, 2001 report, Dr. Nasstrom, an osteopath, demonstrated an understanding of the physical demands of appellant's position as a rural carrier and he noted a correlation, by history, between appellant's activities at work and her low back and elbow pain. He noted that, other than a fall five years earlier, appellant had never had an injury to her back. Dr. Nasstrom reported, "This definitely seems to be a work-related problem."

Dr. Nasstrom's diagnosis of back and hip pain is indefinite and he did not explain physiologically how driving, stretching, reaching and moving back and forth across the seat of her vehicle caused appellant's pain.⁸ His opinion that "This definitely seems to be a work-related problem" is speculative⁹ and rests on a reported temporal correlation, not on a soundly reasoned medical explanation of how the physical demands of the position caused or aggravated a firmly diagnosed medical condition.¹⁰

Dr. Beck's reports are supportive but are also of diminished probative value. He related a history of injury on June 20, 2001 when appellant was twisting, leaning over putting mail in a mailbox and felt severe pain in her back going into her hip. From the results of an MRI scan he diagnosed a small bulging disc at L4-5 off to the left side. The MRI scan results, he stated, were consistent with appellant's symptoms and the bulging disc, he reported, "intermittently pressed on the nerve and caused her left hip pain." Dr. Beck also opined with a reasonable degree of

⁴ *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

⁵ *See Morris Scanlon*, 11 ECAB 384-85 (1960).

⁶ *See William E. Enright*, 31 ECAB 426, 430 (1980).

⁷ *Ceferino L. Gonzales*, 32 ECAB 1591 (1981); *George Randolph Taylor*, 6 ECAB 968 (1954) (medical conclusions unsupported by rationale are of little probative value).

⁸ *Id.*

⁹ *See Philip J. Deroo*, 39 ECAB 1294 (1988) (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); *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).

¹⁰ *See Thomas D. Petrylak*, 39 ECAB 276 (1987).

medical certainty that appellant's work was the cause of her ongoing back and hip pain, stating that the twisting and sitting at work aggravated her condition.

Dr. Beck's history that appellant had no back pain until June 2001, is not consistent with the history appellant related to Dr. Nasstrom: In July 2001 appellant told Dr. Nasstrom that she had a back injury five years earlier when she slipped on a patch of ice at work and that "in the last several months to a year, she has noticed increased problems there." This discrepancy in history diminishes the probative value of Dr. Beck's opinion.¹¹

Appellant submitted general information about back pain and prolapsed or herniated discs. The Board has held, however, that such evidence as newspaper clippings, medical texts and excerpts from publications are of no evidentiary value in establishing the necessary causal relationship, as they are of general application and are not determinative of whether the specific condition claimed was causally related to the particular employment injury involved.¹² As the Board noted earlier, causal relationship is a medical issue, one that must be established by a soundly reasoned medical opinion based on an accurate history.

Because the medical opinion evidence in this case is insufficient to discharge appellant's burden of proof to establish the essential element of causal relationship, the Board will affirm the Office's decisions denying her claim.

The October 2, July 11 and March 6, 2002 decisions of the Office of Workers' Compensation Programs are hereby affirmed.

Dated, Washington, DC
May 16, 2003

Colleen Duffy Kiko
Member

David S. Gerson
Alternate Member

Michael E. Groom
Alternate Member

¹¹ See *James A. Wyrick*, 31 ECAB 1805 (1980) (physician's report was entitled to little probative value because the history was both inaccurate and incomplete). See generally *Melvina Jackson*, 38 ECAB 443, 450 (1987) (addressing factors that bear on the probative value of medical opinions).

¹² *Gaetan F. Valenza*, 35 ECAB 763 (1984); *Kenneth S. Vansick*, 31 ECAB 1132 (1980).