

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of COMIE L. COLEMAN and U.S. POSTAL SERVICE,
GREENSBORO BULK MAIL CENTER, Greensboro, NC

*Docket No. 03-1893; Submitted on the Record;
Issued October 2, 2003*

DECISION and ORDER

Before ALEC J. KOROMILAS, DAVID S. GERSON,
A. PETER KANJORSKI

The issue is whether appellant has established that he developed a cervical condition in the performance of duty.

On July 31, 2002 appellant, then a 51-year-old mail handler and equipment operator, filed an occupational disease claim alleging that he developed a cervical disc condition due to performing repetitive arm movements and spending long hours driving a forklift while looking backward over his shoulder in the performance of duty. In support of his claim, appellant submitted a narrative statement and medical evidence from Dr. Mark W. Roy, his treating Board-certified neurological surgeon.

By letter dated September 3, 2002, the Office of Workers' Compensation Programs asked appellant to submit additional factual and medical evidence, including a comprehensive medical report from his treating physician, explaining the causal relationship, if any, between appellant's diagnosed conditions and factors of his employment.

By decision dated November 21, 2002, the Office denied appellant's claim on the grounds that the medical evidence submitted was insufficient to establish fact of injury.

In a letter dated December 10, 2002, appellant, through counsel, requested reconsideration and submitted additional medical evidence in support of his request. By letter dated February 24, 2003, the Office contacted Dr. Roy and asked that he provide a more comprehensive report addressing the causal relationship between appellant's employment duties and his diagnosed condition. By decision dated April 23, 2003, the Office found the additional medical evidence submitted by appellant to be insufficient to warrant modification of the prior decision. The Office noted that Dr. Roy had not responded to its request for a supplemental report.

The Board finds that appellant has not established that he developed a cervical condition in the performance of duty.

An employee seeking benefits under the Federal Employees' Compensation Act¹ has the burden of establishing the essential elements of his claim, including the fact 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 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. 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 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.³

In support of his claim, appellant submitted a narrative statement explaining the duties of his position alleged to have caused or contributed to his claimed condition. He stated that since 1973 he has worked in several positions requiring strenuous lifting, bending, stooping, squatting, pushing, pulling, reaching, grabbing, twisting and walking. In addition, for the past 8 years he has operated a forklift 8 to 10 hours a day for 5 to 7 days a week. Appellant explained that operating the forklift's steering mechanism required constant repetitive arm movements and that nearly all driving had to be done going backwards, looking over his shoulder, as the pallets he was loading and unloading were too tall to see over when driving forward. He stated that he made hundreds of deliveries a day, all driving backwards looking over his shoulder. In a second narrative statement dated September 19, 2002, appellant elaborated on the onset of his condition, stating that on or about July 13, 2002 he experienced right-sided neck, shoulder and arm pain, which woke him from his sleep in the middle of the night. Appellant stated that he went to work as usual on July 14, 2002, but his pain worsened as he tried to perform his duties and he went home sick. He again tried to work on July 15, 2002 and again he had to leave early due to increased pain upon twisting his neck from side to side, turning the steering wheel of the forklift and performing other activities such as lifting, bending, pushing, pulling, twisting and turning.

In addition, appellant submitted an August 26, 2002 narrative report from Dr. Mark W. Roy, his treating Board-certified neurological surgeon, who stated that appellant reported that around July 13, 2002, while driving a forklift with his head turned around, he experienced the

¹ 5 U.S.C. §§ 8101-8193.

² *Kathryn A. Tuel-Gillem*, 52 ECAB 451 (2001); *Charles E. Evans*, 48 ECAB 692 (1997).

³ *Claudio Vazquez*, 52 ECAB 496 (2001).

onset of right shoulder and arm pain and tingling down into his fingers. He noted that magnetic resonance imaging (MRI) scan and cervical spine films showed spondylosis disease and a diffuse herniation prominent on the right at C6-7, as well as a right posterolateral disc herniation at C5-6. Dr. Roy diagnosed mixed right C6 and C7 radiculopathy secondary to these discs and recommended conservative treatment. In an August 26, 2002 duty status report, Dr. Roy indicated that appellant had been diagnosed with right C6 and C7 radiculopathy, listed the diagnosis due to injury as herniated discs and indicated that appellant was able to return to regular work on August 26, 2002. A July 17, 2002 medical absence slip contained in the record asked that appellant be excused from work from July 20 to 26, 2002, due to cervical disc problems. Finally, the record contains a narrative report dated November 22, 2002, in which Dr. Roy stated in pertinent part:

“In July of this year, while driving a forklift [appellant] had the onset of right shoulder pain and arm pain and tingling down into his fingers. It occurred at work and was related to his working on the forklift. It was temporally related to it. The pathology demonstrated on the MRI certainly was consistent with the clinical findings of a right C6 and C7 radiculopathy. It has responded to treatment with epidural steroids. There is no question that this is related to his work as it did occur while he was looking over his shoulder in the forklift.”

The Board notes that none of the medical evidence submitted by appellant contains any rationalized discussion of the cause of appellant’s diagnosed cervical conditions. An individual seeking compensation benefits has the burden of establishing the essential elements of his or her claim. Thus, the employee has the burden of establishing by the weight of reliable, probative and substantial medical evidence, a firm diagnosis of his or her condition and that the condition alleged is causally related to factors of the federal employment.⁴ While Dr. Roy stated that there was “no question” that appellant’s condition was related to his work duties as it occurred while he was riding the forklift, he does not appear to have based his opinion on an accurate history of the injury. In his narrative statement dated September 19, 2002, appellant specifically stated that on or about July 13, 2002, he experienced right-sided neck, shoulder and arm pain which woke him from his sleep in the middle of the night and that it was following this event, on July 14 and 15, 2002 that he reexperienced neck and arm pain while performing his employment duties. In addition, Dr. Roy did not explain how appellant’s various employment duties would have caused or contributed to his diagnosed cervical conditions.

The weight of medical evidence is determined by the opportunity for and thoroughness of examination, the accuracy and completeness of the physician’s knowledge of the facts and medical history, the care of analysis manifested and the medical rationale expressed in support of the opinion.⁵ Medical opinions based upon an incomplete history have little probative value.⁶ In addition, the mere fact that a condition manifests itself during a period of employment does not raise an inference that there is a causal relationship between the two. Neither the fact that the

⁴ *Thomas S. Miceli*, 40 ECAB 1322 (1989).

⁵ *Anna C. Leanza*, 48 ECAB 115 (1996).

⁶ *Frank Luis Rembisz*, 52 ECAB 147 (2000).

condition became apparent during a period of employment, nor the belief of appellant that the condition was caused by or aggravated by employment conditions is sufficient to establish causal relation.⁷ As Dr. Roy's opinion is based on an inaccurate history of the injury and further does not contain the necessary rationale in support of his conclusions, his reports are of little probative value and are insufficient to establish that appellant developed a cervical condition causally related to his employment.⁸

By letter dated September 3, 2002, the Office informed appellant of the necessity of submitting rationalized medical evidence to substantiate that he developed a medical condition due to factors of his federal employment. In addition, by letter dated February 24, 2003, the Office asked Dr. Roy to elaborate on his prior opinion and to provide medical rationale for his conclusions. As appellant failed to submit any medical evidence which contains a rationalized medical opinion addressing how his federal employment caused or contributed to his condition, the Office properly denied his claim.

The decisions of the Office of Workers' Compensation Programs dated April 23, 2003 and November 21, 2002 are affirmed.

Dated, Washington, DC
October 2, 2003

Alec J. Koromilas
Chairman

David S. Gerson
Alternate Member

A. Peter Kanjorski
Alternate Member

⁷ *Claudia L. Yantis*, 48 ECAB 495 (1997).

⁸ *Claudio Vazquez*, *supra* note 3; *Frank Luis Rembisz*, *supra* note 6.