

**United States Department of Labor
Employees' Compensation Appeals Board**

JAMES A. GREEN, Appellant

and

**SMITHSONIAN INSTITUTION, OFFICE OF
PROTECTIVE SERVICES, Washington, DC,
Employer**

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**Docket No. 04-970
Issued: July 13, 2004**

Appearances:
James A. Green, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

COLLEEN DUFFY KIKO, Member
DAVID S. GERSON, Alternate Member
WILLIE T.C. THOMAS, Alternate Member

JURISDICTION

On March 3, 2004 appellant filed a timely appeal from a merit decision of the Office of Workers' Compensation Programs dated March 3, 2003, which rejected his claim for migraine headaches, causally related to his federal employment. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over this case.

ISSUE

The issue is whether appellant has established that he developed disabling migraine headaches causally related to factors of his federal employment.

FACTUAL HISTORY

On November 20, 2002 appellant, then a 43-year-old systems administrator, filed a notice of occupational disease claiming that on June 28, 2002 he realized that he had developed migraine headaches, causally related to his federal employment.

In support of his claim, appellant submitted an unsigned October 31, 2001 letter he wrote to Dr. William S. Dunn, an internist, which stated that he suffered from intractable migraines which he felt were caused by his employment activity. Appellant provided a history of his headache onset and duration and frequency and he claimed that he was unable to perform his duties because of the headaches.

In support of his claim, appellant submitted a November 30, 2001 letter from Dr. Somchai Laowattana, a Board-certified neurologist, to Dr. Dunn, who noted that he had a 10-year history of headaches that were consistent with migraine headaches and that may have had a component of chronic tension headaches as well. Dr. Laowattana did not discuss causation of appellant's headaches, but he did describe his persistent symptoms and medication usage.

In a January 2, 2002 report, Dr. Laowattana noted that appellant, under his current health insurance plan could not afford the migraine medication prescribed, so he changed the dosage of appellant's prophylactic medication and his migraine rescue prescription.

Appellant submitted a March 7, 2002 work excuse slip signed by Dr. Dunn that recommended that he be off work from February 26 until March 12, 2002. However, no further information was provided.

On March 11, 2002 Dr. Laowattana reported appellant's progress with his medication and the onset of his headaches that month.

Appellant also submitted a March 12, 2002 letter of reprimand issued him by the employing establishment, which noted that he had violated the technical security division leave policy. He provided attached comments claiming that he could not reach a supervisor to explain why he was taking off from work for several days.

In a June 24, 2002 report, Dr. Dunn diagnosed appellant with migraine headaches, noted his prescribed treatment and noted that he did not anticipate that appellant could return to work without certain restrictions, such as time to take his medications and lie down in a quite dark environment. Dr. Dunn noted that appellant's migraines had increased in severity and duration and that he was seeing a neurologist.

On June 28, 2002 appellant stopped work and did not return.

Dr. Dunn completed a July 31, 2002 Form CA-20 attending physician's report noting that appellant had migraine headaches and he checked the "yes" box to the question of whether the condition found was caused or aggravated by an employment activity. He remarked regarding the question, that the frequency and severity of appellant's headaches had increased, but no further explanation was provided.

By letter dated August 1, 2002, Dr. Laowattana noted appellant's frequency of headaches and medication usage and he increased his maintenance medication for headache control. Causation was not discussed.

By letter dated December 3, 2002, the Office requested that appellant provide further factual and medical information regarding his claim.

Appellant submitted several pages of information about his position with the employing establishment.

By decision dated March 3, 2003, the Office rejected appellant's claim, finding that he had failed to establish that the implicated events had occurred as alleged and that the medical evidence did not establish that his migraine headaches were as a result of certain employment factors.

LEGAL PRECEDENT

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 he 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 is causally related to the employment injury.²

In the instant case, appellant has established that he is an employee of the United States and that his claim was timely filed. However, he has not established that he sustained an injury in the performance of duty as alleged.

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;³ (2) a factual statement identifying the employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition;⁴ 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.⁵ The medical evidence required to establish 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,⁶ must be one of reasonable

¹ 5 U.S.C. § 8101 *et seq.*

² *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

³ *See Ronald K. White*, 37 ECAB 176, 178 (1985).

⁴ *See Walter D. Morehead*, 31 ECAB 188, 194 (1979).

⁵ *See generally Lloyd C. Wiggs*, 32 ECAB 1023, 1029 (1981).

⁶ *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

medical certainty⁷ 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.⁸

The opinion of a physician who has specialized training in a particular field of medicine has greater probative value on issues involving that particular field than opinions of other physicians.⁹

Lay individuals, such as claimants, physician's assistants or social workers, are not competent to render a medical opinion and such opinions have no probative value.¹⁰ Further, when a physician's opinion on causal relation consists of just checking "yes" to a form question, that opinion has little probative value and is insufficient to establish causal relationship.¹¹

ANALYSIS

In this case, appellant claimed that his disabling migraine headaches were causally related to his federal employment, but he did not explain why he believed this to be so. As appellant is a lay person, his opinion has no probative value and does not establish his claim. Although requested by the Office to do so, appellant did not provide any description of the employment factors allegedly causing or contributing to his migraine headaches and did not submit medical evidence establishing a causal relationship.

Appellant provided a work excuse slip from Dr. Dunn, an internist, which recommended that he be off work for a period of time. However, Dr. Dunn did not provide any explanation as to why appellant should be off work, nor did he diagnose an employment-related condition or provide an opinion as to causal relationship. Therefore, this work excuse does not support appellant's employment-related claim.

On June 24, 2002 Dr. Dunn diagnosed appellant with a migraine headache, noted the prescribed treatment and opined that he could not return to work without certain restrictions such as time to take medication and to lie down in a dark quiet place. Although this report does provide support for his need of certain work accommodations to enable him to take his medication, it does not support that there is any causal relationship between appellant's employment duties and the causation of his migraine headaches and, therefore, it does not establish his occupational disease claim.

On July 31, 2002 Dr. Dunn completed a Form CA-20, attending physician's report, on which he checked "yes" to the question of whether the condition found was caused or aggravated

⁷ See *Morris Scanlon*, 11 ECAB 384, 385 (1960).

⁸ See *William E. Enright*, 31 ECAB 426, 430 (1980).

⁹ See *Effie Davenport (James O. Davenport)*, 8 ECAB 136 (1955).

¹⁰ See *Sheila Arbour (Victor E. Arbour)*, 43 ECAB 779 (1992).

¹¹ *Gary J. Watling*, 52 ECAB 278 (2001).

by an employment activity. He did not, however, provide any accompanying explanatory statement describing the relationship or its causation. He noted only that the frequency and severity of appellant's headaches had increased, but he did not relate this increase to factors of appellant's employment. As this "yes" answer to a question on causal relation is conclusory and unrationalized, it has little probative value and is insufficient to establish appellant's claim.

Appellant also provided a November 30, 2001 letter from Dr. Laowattana, a neurologist, noting his opinion on causal relationship that appellant had a 10-year history of headaches which were consistent with migraines and that may have had a component of tension headache in them. However, he did not relate the headache onset to any specific employment factors and, therefore, his opinion does not support an employment relationship.

On January 2, 2002 Dr. Laowattana discussed appellant's medication changes, but he did not provide any opinion as to causal relationship with any employment factors. Therefore, this report does not support appellant's claim.

On March 11, 2002 Dr. Laowattana reported on appellant's medication progress and again did not discuss causal relationship with his employment. Therefore, this report is insufficient to establish appellant's claim.

By letter dated August 1, 2002, Dr. Laowattana merely noted the frequency of appellant's headaches and his medication usage and he did not discuss causal relationship with any factors of appellant's employment. Therefore, this letter does not support appellant's claim.

As none of the medical evidence submitted by appellant discusses the causal relationship between his migraine headaches with certain specific factors of his employment, it is insufficient to establish appellant's occupational disease claim.

The remainder of the evidence submitted, including the letter of reprimand, the memorandum on leave usage, the personnel paperwork and his position description, do not address the issue of causal relationship with employment factors and does not constitute probative medical evidence.

CONCLUSION

Appellant has failed to meet his burden of proof to establish that he developed migraine headaches, causally related to factors of his federal employment.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated March 3, 2003 is hereby affirmed.

Issued: July 13, 2004
Washington, DC

Colleen Duffy Kiko
Member

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member