

[magnetic resonance imaging] [scans]. I was in a lot of pain so I kept leaving the job going to the hospital. Also I found out that I had bone cancer. I had injured myself on the job also in 1998.”¹

The Office asked appellant to submit additional information, including a comprehensive medical report providing, among other things, his physician’s reasoned opinion on the cause of his diagnosed condition.

Appellant submitted a June 10, 2003 blood and marrow transplantation consultation which noted his history of multiple myeloma stage IIIa, diagnosed in January 2003. It was reported that his symptoms began in December 2002, when he complained of left-sided abdominal pain radiating to the back. Upon subsequent evaluation and an MRI scan, he was found to have several lytic lesions of the thoracic and lumbar spine with a T11 spinal cord compression. Subsequent biopsy of T11 confirmed multiple myeloma.

A July 9, 1998 disability slip indicated that appellant was seen for severe low back pain. He was released to duty the next day with a lifting restriction. Findings included, positive straight leg raising on the left and pain radiating down the left leg to the ankle.

Appellant submitted extensive medical records relating to his multiple myeloma, test results, work restrictions and disability status. In an attending physician’s statement, undated but received by the Office on March 31, 2004, Dr. Elizabeth J. Shpall, a Board-certified internist specializing in oncology, reported that he was diagnosed with multiple myeloma and was totally disabled for work beginning June 22, 2003. To the question, “In your opinion, is this disability the result of injury arising out of and in the course of employment or occupational disease?” she checked “No.” Appellant also submitted records relating to his 1995 claim for pes planus and right subtalar joint capsulitis.

In a decision dated June 14, 2004, the Office denied appellant’s claim on the grounds that the medical evidence did not establish that the claimed medical condition resulted from the implicated employment factors.

Appellant requested reconsideration. He submitted a September 17, 2004 report from Dr. Michael Newmark, a neurologist, stating:

“Again it was an honor seeing [you] in October 2002, as you know you had back pain which was identified as being secondary to multiple myeloma. This tumor indeed was the cause of your symptoms and of course you are being followed by the hematology/oncology group.”

Appellant submitted other medical records, including a December 30, 2002 MRI scan of the thoracolumbar spine. In a December 23, 2002 report, Dr. Christopher Siodlarz noted that x-rays revealed some mild degeneration of L5-S1, but were otherwise unremarkable. He gave

¹ Appellant filed a similar claim on April 20, 2004 alleging that his lower back pain and subtalar joint capsulitis was a result of the duties he performed as a mail handler: “Pain came upon my body in the stomach area and wrapped around the lower back, could not walk.”

the following impression: “Left quadrant abdominal pain with referral to the back. I do not feel [that appellant’s] pain is originating from [appellant’s] lumbar spine.”

The employing establishment submitted a January 13, 2005 report from a registered nurse at its health unit. After relating the duties to which appellant attributed his condition and summarizing medical records, the nurse offered the following opinion on causal relationship:

“Many patients with multiple myeloma show no symptoms for years. Eventually, most patient develop some evidence of the disease related to weakened bones (bone pain), decreased numbers of red or white blood cells (anemia, infections), and kidney failure (increased creatinine). As bones weaken, soft spots and fractures may develop. Destruction of the bone frequently increases the level of calcium in the blood, leading to symptoms of hypercalcemia (loss of appetite, nausea, thirst, fatigue, constipation and confusion).

“[Appellant] had many of the above symptoms before and after being diagnosed with multiple myeloma of the bone.

“It is my opinion that the tumor indeed was the cause of the symptoms he was experiencing and not a factor of employment. This was also validated by Dr. Michael Newmark at Kelsey Seybold Clinic.”

In a decision dated March 14, 2005, the Office reviewed the merits of appellant’s claim and denied modification of the June 14, 2004 decision. The Office found that the additional medical evidence submitted was still insufficient to establish that the claimed condition was related to his employment activities.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees’ Compensation Act² has the burden of proof to establish the essential elements of his claim. When an employee claims that he sustained an injury in the performance of duty, he must submit sufficient evidence to establish that he experienced a specific event, incident or exposure occurring at the time, place and in the manner alleged. He must also establish that such event, incident or exposure caused an injury.³

Causal relationship is a medical issue⁴ 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

² 5 U.S.C. §§ 8101-8193.

³ 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).

⁴ *Mary J. Briggs*, 37 ECAB 578 (1986).

factual and medical background of the claimant,⁵ must be one of reasonable medical certainty⁶ 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.⁷

ANALYSIS

Appellant's duties as a mail handler are not in dispute. It may be accepted that he experienced a specific event, incident or exposure occurring at the time, place and in the manner alleged. The question for determination is whether these employment duties caused an injury.

The Board finds; however, that there is no report from a physician who attributes any of the diagnosed medical conditions to the duties appellant performed as a mail handler. The duties themselves are accepted and the medical records submitted establish a number of diagnosed conditions, in particular multiple myeloma. What is missing is a physician's opinion causally relating his back condition to his federal employment. A physician must demonstrate an understanding of the specific duties appellant performed and must provide a well-reasoned opinion showing, to a reasonable medical certainty, how these duties caused or aggravated a diagnosed medical condition. Without a sound medical discussion of the matter, the evidence submitted in this case does not support the critical element of causal relationship.

Dr. Shpall, the oncologist, indicated with a mark that appellant's total disability for work beginning June 22, 2003 was not the result of an injury arising out of and in the course of employment. Dr. Newmark generally concurred, stating that appellant's tumor was the cause of his symptoms. He did not implicate appellant's job duties as a cause of his disability. Dr. Siodlarz did not believe that his pain originated from the spine.⁸ The employing establishment submitted the opinion of a health unit nurse who also negated causal relationship, but her opinion has no probative value because a nurse is not a "physician" within the meaning of the Act and is, therefore, not competent to give a medical opinion on the matter.⁹ The Board will, therefore, affirm the denial of appellant's claim.

CONCLUSION

The Board finds that appellant has not met his burden of proof to establish that he sustained an injury in the performance of duty. Although the duties he performed as a mail

⁵ *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

⁶ *See Morris Scanlon*, 11 ECAB 384, 85 (1960).

⁷ *See William E. Enright*, 31 ECAB 426, 430 (1980).

⁸ *See Connie Johns*, 44 ECAB 560 (1993) (holding that a physician's opinion on causal relationship must be one of reasonable medical certainty, supported with affirmative evidence, explained by medical rationale and based on a complete and accurate medical and factual background). *See generally Melvina Jackson*, 38 ECAB 443, 450 (1987) (discussing the factors that bear on the probative value of medical opinions).

⁹ *Vicky L. Hannis*, 48 ECAB 538 (1997); *see* 5 U.S.C. § 8101(2) (the term "physician" includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors and osteopathic practitioners within the scope of their practice as defined by state law).

handler are not in dispute, appellant has not submitted sufficient medical evidence supporting a causal connection between those duties and his diagnosed medical conditions.

ORDER

IT IS HEREBY ORDERED THAT the March 14, 2004 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: December 12, 2005
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

David S. Gerson, Judge
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board