

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

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**M.B., Appellant**

**and**

**PEACE CORPS, Washington, DC, Employer**

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**Docket No. 06-1501  
Issued: November 7, 2006**

*Appearances:*  
*Appellant, pro se*  
*Office of Solicitor, for the Director*

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

DAVID S. GERSON, Judge  
MICHAEL E. GROOM, Alternate Judge  
JAMES A. HAYNES, Alternate Judge

**JURISDICTION**

On June 19, 2006 appellant filed a timely appeal from decisions of the Office of Workers' Compensation Programs dated December 27, 2005 and May 18, 2006 finding that he did not sustain an injury in the performance of duty. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

**ISSUE**

The issue is whether appellant has established that he sustained an injury in the performance of duty causally related to factors of his federal employment.

**FACTUAL HISTORY**

On October 27, 2005 appellant, a 31-year-old former employing establishment volunteer, filed an occupational disease claim, (Form CA-2) alleging abdominal pain in his lower left stomach radiating to his groin and leg. He became aware of his condition and related it to his employment on April 20, 2004. Appellant stated that his condition was due to unsanitary living conditions while stationed in Africa. He was stationed in Gabon, Africa from September 10, 2003 to June 16, 2005.

In a statement filed with his claim form, appellant related that he began to experience abdominal pain in his stomach combined with diarrhea, cramping and nausea in December 2004.<sup>1</sup> He was diagnosed with schistosomiasis mansoni and intestinal pinworms at the Bongolo Evangelical Hospital. Appellant's health improved after taking medicine, but he became ill again in April 2004. He was again treated at the hospital. While the diarrhea and nausea stopped, he continued to experience pain in his abdomen that extended to his groin and left leg. Appellant was treated at different times for a urinary tract infection, epididymitis and colitis. This pain persisted throughout the rest of his service with the employing establishment.

Appellant's medical and dental information, which was provided to the employing establishment prior to employment, did not reveal any health problems. Included in the information was a clinical examination of appellant done by an unknown physician which concluded that he did not have any medical concerns limiting his geographic assignment or his full participation in the employing establishment program. A later correction to the report showed that appellant had "L-testicular torsion at age 11."

A Mid-Service Health Evaluation, dated September 7, 2004, noted that appellant had been treated during the previous year for "schisto[somiasis], jock itch/fungus, boils/abscess and bacterial infection of testicle." The employing establishment's medical office listed the following medical conditions for appellant and their corresponding onset dates: fungal skin infection July 31, 2003; boils on feet and hands November 14, 2003; intestinal worm (pinworm) December 12, 2003;<sup>2</sup> cellulites November 14, 2000; diarrhea December 12, 2003; schistosomiasis mansoni December 12, 2003; pharyngitis March 5, 2004 and August 13, 2005; urinary tract infection April 16, 2004; epididymitis and prostatitis May 7, 2004; and colitis June 10, 2004 and April 28, 2005;

A close-of-service or extension-of-service medical evaluation was signed on June 16, 2005 by Dr. Jean-Luc Eyango, Peace Corps medical officer for Gabon, Africa. Appellant complained of recurring left abdominal pain, which extended at times down his left leg, including his left thigh and the ball of his left foot and involved his lower left testicle and lower left back. Dr. Eyango noted upon examination that appellant had three bug bites on his genitalia, red and inflamed patches in between the thighs related to a fungal infection and pain in his left ankle. The laboratory tests including a urinalysis and a microscopic examination were normal. Appellant was found to be free of schistosomiasis.

After leaving the employing establishment, appellant was examined on July 26, 2005 by Dr. Charles E. Bellingham, a Board-certified urologist. Examination of appellant's external genitalia appeared normal and there was no induration of the testicle or the epididymal structures and no scrotal lesion. Dr. Bellingham also noted that appellant's eosinophil count was normal. He concluded that an orthopedic surgeon or neurologist would be able to provide a more definite evaluation.

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<sup>1</sup> The year of the occurrence appears to be a typographical error and based on the chronology in the record, it should be 2003.

<sup>2</sup> This condition was listed twice for the same date.

An August 19, 2005 report from Dr. Ramil S. Bhatnagar, a Board-certified orthopedic surgeon, stated that an August 12, 2005 magnetic resonance imaging (MRI) scan was normal with no disc herniation, no instability patterns, no inflammation and no evidence of any neural compression. He recommended that appellant would benefit from a full workup with respect to his back and abdominal pain.

On November 2, 2005 Dr. David L. Hammer, Chief of Clinical Programs for the employing establishment, conducted a case review of appellant's medical records. He noted that appellant continued to complain of abdominal pain radiating to his groin and leg. Dr. Hammer observed that appellant had been seen for this condition by urologists, internists, orthopedists and other specialists. Appellant's laboratory results, including urine, CBC's, cultures, schistosomiasis testing, stool testing and MRI scan, were all reported as normal. Dr. Hammer speculated that preemployment treatment of appellant's left testicle could cause his symptoms and noted a presumptive diagnosis of psychosomatic disorder causing undue focus by appellant on his medical condition. He concluded that appellant's condition was not related to his employing establishment service.

By letter dated August 17, 2005, the Office advised appellant that he needed to submit additional evidence with respect to his claim. He was asked to provide a comprehensive medical report from a treating physician which included information concerning his testicular surgery and a firm diagnosis of his condition with an explanation of its medical etiology. The Office requested that the medical report include any employment-related infectious agents or work-related circumstances with an explanation of how such agents or circumstances contributed to appellant's condition.

Appellant provided an initial evaluation letter dated November 15, 2005, to Dr. Bhatnagar signed by John P. Siciliano, a physical therapist with Family Focus Physical Therapy, PA. Mr. Siciliano noted under appellant's history a lumbar sprain that began a year previously. He also noted that x-rays and an MRI scan were negative. He recommended physical therapy.

By decision dated December 27, 2005, the Office denied appellant's claim on the grounds that the medical evidence did not establish that his condition arose from his federal employment. The Office found that there was no diagnosis from a physician related to appellant's claim of abdominal pain, which was attributable to exposure to intestinal parasites and bacteria while serving Africa. The reports from Dr. Bellingham and Dr. Bhatnagar did not provide a diagnosis of any abnormality and the employing establishment medical records did not include any diagnosis related to appellant's condition other than schistosomiasis, which had been successfully treated. The Office noted that the employing establishment medical records reflected a preemployment groin injury to appellant's testicle that caused some tenderness in the area.

By undated letter postmarked February 14, 2006, appellant requested reconsideration of the December 27, 2005 decision.<sup>3</sup> He stated that his symptoms appeared after cutting bamboo to

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<sup>3</sup> For the first time, appellant argued that he had a lumbar sprain resulting from his employing establishment service. However, as the Office has not adjudicated this aspect of appellant's claim, it is not before the Board on the current appeal. *See* 20 C.F.R. § 501.2(c).

build a fence. Appellant claimed that he had been sick with diarrhea, cramps and a fever the previous week and thought that his condition was related to that illness. He enclosed information previously submitted to the Office. Additionally, appellant included the first page of a report to Dr. Bellingham from Dr. Bhatnagar.

By decision dated May 18, 2006, the Office denied modification of the December 27, 2005 decision.

### **LEGAL PRECEDENT**

An occupational disease or illness means a condition produced in the work environment over a period longer than a single workday or shift by such factors as systemic infection, continued or repeated stress or strain or other continued or repeated conditions or factors of the work environment.<sup>4</sup>

To establish that an injury was sustained in the performance of duty in an occupational disease claim, an employee must submit the following: (1) medical evidence establishing the presence or existence of a condition for which compensation is claimed; (2) a factual statement identifying employment factors alleged to have caused or contributed to the condition; and (3) medical evidence establishing that the employment factors identified by the employee were the proximate cause of the condition or illness, 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 employee.<sup>5</sup>

Causal relationship is a medical issue and the medical evidence required to establish causal relationship is rationalized medical evidence. Rationalized medical evidence is medical evidence which includes a physician's rationalized medical opinion on the issue of whether there is a causal relationship between an employee's diagnosed conditions and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the employee, must be one of reasonable medical certainty and must be supported by medical rationale explaining the nature of the relationship between the diagnosed conditions and the specific employment factors identified by the employee.<sup>6</sup>

The mere fact that a disease 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 disease became apparent during a period of employment nor the belief of appellant that the disease was caused or aggravated by employment conditions, is sufficient to establish causal relation.<sup>7</sup>

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<sup>4</sup> *William Taylor*, 50 ECAB 234 (1999); *see also* 20 C.F.R. § 10.5(q).

<sup>5</sup> *Donna L. Mims*, 53 ECAB 730 (2002).

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

## ANALYSIS

On October 27, 2005 appellant filed an occupational disease claim for benefits alleging that he developed abdominal pain radiating to his groin and leg due to unsanitary living conditions during his employment in Africa. The Board finds that appellant submitted insufficient medical evidence to establish that his claimed condition is causally related to his federal employment.

Whether appellant sustained a personal injury in the performance of duty generally can be established only by medical evidence. During his tenure with the employing establishment, appellant was treated for many illnesses related to living in Gabon, Africa such as schisto, fungus, boils and a bacterial infection. According to appellant, treatment for these conditions failed to alleviate the pain he developed in his abdomen and he continued to complain of it during his medical evaluation upon completion of his service.

A report of appellant's medical examination conducted by Dr. Eyango at the end of his service noted bug bites, a fungal infection and pain in his left ankle. However, causal relationship was not addressed. The rest of his tests were normal. Results from a post-service examination by Dr. Bellingham, a urologist, was normal. An examination by and an MRI scan done for Dr. Bhatnagar, an orthopedic surgeon, was also reported as normal with no disc herniation, no instability patterns, no inflammation and no evidence of any neural compression. Although the doctor recommended a full workup of the back and abdominal area, he did not provide any statement providing a diagnosis or attributing appellant's condition to his federal employment. A post-service review of appellant's medical records done by Dr. Hammer for the employing establishment concluded that appellant's condition was unrelated to his service in Africa. He indicated that appellant's symptoms could derive from a preemployment injury and were presumptively psychosomatic.

The initial evaluation done by physical therapist, Mr. Siciliano, for Dr. Bhatnagar diagnosing lumbar sprain is insufficient to establish appellant's claim as a physical therapist is not a physicians as defined under the Act.<sup>8</sup>

The Office advised appellant to provide a comprehensive medical report from a treating physician providing an opinion, with medical reasons, on the cause of his condition. As appellant failed to submit such evidence, he has not met his burden of proof to establish his claim. Accordingly, the Board finds that he has not established his claim for compensation.<sup>9</sup>

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<sup>8</sup> Section 8101(2) of the Federal Employees' Compensation Act provides as follows: (2) physician includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors and osteopathic practitioners within the scope of their practice as defined by State law. The Board notes that physical therapists are not deemed physicians under the Act and, therefore, their reports are of no probative value. However, as Dr. Bhatnagar referred appellant to the physical therapist and as he provided a report for Dr. Bhatnagar, the Board finds that it constitutes medical evidence.

<sup>9</sup> See *Richard A. Weiss*, 47 ECAB 182 (2000).

**CONCLUSION**

The Board finds that appellant has not established that he sustained a medical condition causally related to factors of his federal employment.

**ORDER**

**IT IS HEREBY ORDERED THAT** the May 18, 2006 and December 27, 2005 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: November 7, 2006  
Washington, DC

David S. Gerson, Judge  
Employees' Compensation Appeals Board

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

James A. Haynes, Alternate Judge  
Employees' Compensation Appeals Board