

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

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**B.J., Appellant**

**and**

**U.S. POSTAL SERVICE, POST OFFICE,  
Roanoke Rapids, NC, Employer**

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**Docket No. 06-1541  
Issued: November 3, 2006**

*Appearances:*  
*Daniel F. Read, Esq., for the appellant*  
*Office of Solicitor, for the Director*

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

ALEC J. KOROMILAS, Chief Judge  
DAVID S. GERSON, Judge  
JAMES A. HAYNES, Alternate Judge

**JURISDICTION**

On June 23, 2006 appellant filed a timely appeal from the October 11, 2005 and February 3, 2006 merit decisions of the Office of Workers' Compensation Programs, which accepted his claim for depression and denied compensation for seizures. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction to review the merits of appellant's case.

**ISSUE**

The issue is whether appellant sustained a seizure disorder in the performance of duty.

**FACTUAL HISTORY**

On March 3, 2005 appellant, then a 50-year-old postmaster, filed an occupational disease claim alleging that his severe anxiety, depression and stress were a result of his federal employment: "I have been working 10 [to] 22 hours 6 [to] 7 days a week due to short staffing for the past 6 months (May 2004)." He explained that, although his office of 40 or more employees required two supervisors, he had only one supervisor from May to August 2004 and no supervisors from August 2004 to January 2005 and had to run the entire operation by himself.

Appellant stated that he had high blood pressure and had two mini-strokes. He indicated that he first became aware of his condition on December 22, 2004.

To support his claim, appellant submitted his medical workup. On May 13, 2005 the Office requested additional evidence, including a medical explanation of causal relationship:

“Provide a comprehensive medical report from your treating physician which describes your symptoms; results of examinations and test; diagnosis; the treatment provided; the effect of treatment; and the doctor’s opinion, with medical reasons, on the cause of your conditions, both mental and physical. Specifically, if your doctor feels that exposure or incidents in your [f]ederal employment contributed to your condition, an explanation of how such exposure contributed should be provided.” (Emphasis deleted.)

On April 21, 2005 Dr. W. Louis Chetty, practicing in internal medicine, reported that appellant presented to his office on March 21, 2005 with an episode of blurred vision and right-sided facial numbness radiating down to the right leg. He initially thought that appellant’s complaints were secondary to a transient ischemic attack, but during a later hospitalization appellant was given a diagnosis of simple partial seizures. Dr. Chetty explained that these seizures are sensory in nature and likely secondary to brain lesions that have not been seen on magnetic resonance imaging (MRI) scan. “Of note,” he stated: “the patient’s age and history of hypertension put him at risk for stroke. It is possible that he has had a small ischemic event in the past, which may be causing his seizures. Other possibilities include idiopathic in nature.” Further, Dr. Chetty reported that appellant’s symptoms appeared to be exacerbated by stress: “The vast majority of these episodes have occurred while he was at work, which is a stressful situation for the patient. The patient’s prognosis at this point seems to be poor. As the work environment increases his stress and anxiety levels, it increases the likelihood of these events.”

On August 23, 2005 Dr. David N. Johnson, a neurologist, connected appellant’s seizures to stress:

“[Appellant] is being seen in the Neurology Clinic for seizures. His seizures are exacerbated by stress. Since he has stopped working at his old job -- his primary stress generator -- he has not had any further seizures.

“I feel that continued avoidance of stressful situations, including his old job and the use of anti-seizure medications will keep his seizures in remission.”

In a decision dated October 11, 2005, the Office accepted appellant’s claim for “adjustment disorder depressed.”

Appellant thereafter submitted claims for wage loss for periods beginning March 22, 2005. On November 17, 2005 the Office asked appellant to submit evidence to support these claims:

“Our letter of acceptance to you dated October 11, 2005 stated that we had accepted your claim for depression. We did not accept any type of seizure disorder and we based the decision on the circumstances that occurred in your old

job. Since you have not been working at the same job, it is not clear why you would claim disability due to depression for intermittent periods after leaving the job.

“Therefore, you must submit a detailed and rationalized medical report from your psychiatrist to substantiate and explain how you were totally disabled for the exact periods you are claiming due to incidents that occurred in the past.”

In an April 20, 2005 attending physician’s form report, Dr. Chetty noted that appellant’s date of injury was March 21, 2005. He reported the following history of injury: “The patient was depressed and very anxiety laden secondary to job-related issues. He subsequently developed seizure activity when on the job.” Dr. Chetty diagnosed seizure disorder, depression and anxiety. With an affirmative mark, he indicated that these conditions were caused or aggravated by an employment activity.<sup>1</sup>

The Office claims examiner called appellant on December 12, 2005:

“I explained that we had never accepted a seizure disorder because we did not have enough objective and rationalized medical documentation. The short letter dated August 23, 2005 by Dr. Johnson did not suffice. Besides, [Dr. Johnson] said that[,] since claimant had not had any seizures since stopping work, his claims for compensation would not be valid due to that condition. He stopped work on March 22, 2005, one day after the traumatic injury claim, 062136187, with the [date of injury] of March 21, 2005, that claim was denied, so he filed the ([Form] CA-7) claim beginning March 22, 2005 on this case number.... I told him he needed to pursue compensation on the other claim by filing some type of appeal, because that was a new injury or circumstance and his claims for compensation on this case would probably not be paid because we only accepted, as stated above, his case for problems prior to the new injury....”

On December 23, 2005 the Office asked appellant to submit evidence to support his claims for wage loss: “Medical evidence establishing disability for work during the entire period claimed -- and that such disability is related to your accepted condition from this case -- is needed.”

In a decision dated February 3, 2006, the Office denied appellant’s claims for wage loss:

“By decision dated October 11, 2005, this occupational disease claim was accepted for depression only and seizures were not accepted. You filed a traumatic injury claim, 062136187, for seizures with a date of injury of March 21, 2005. That claim was initially denied and it was denied again on

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<sup>1</sup> On July 6, 2005 Dr. Chetty completed another attending physician’s form report and indicated that the date of injury was December 20, 2004. He noted the following history: “Patient gave history of anxiety secondary to stressful work environment, which included working short staffed with long hours and being threatened with removal.” Dr. Chetty diagnosed generalized anxiety/depression and seizures. But in this report he offered no opinion on whether these conditions were caused or aggravated by the employment activity described.

September 22, 2005 by reconsideration. You then began filing claim Forms CA-7 for compensation on this claim beginning March 21, 2005. It was explained to you by letters dated November 17 and December 23, 2005 and telephone conversation on December 12, 2005 that this was not correct procedure and appropriate medical documentation would have to be submitted.

“You have failed to submit any appropriate medical documentation and you have continued to file claims under this case number, when you should have referred to the appeal rights that were issued on case number 062136187, where you specifically alleged a new injury.

“Therefore, your claims for compensation are denied in this claim.”

### **LEGAL PRECEDENT**

An employee seeking benefits under the Federal Employees’ Compensation Act<sup>2</sup> 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.<sup>3</sup>

Causal relationship is a medical issue<sup>4</sup> 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 factual and medical background of the claimant<sup>5</sup> must be one of reasonable medical certainty<sup>6</sup> 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.<sup>7</sup>

### **ANALYSIS**

When the Office accepted appellant’s claim for “adjustment disorder depressed,” it prepared a statement of accepted facts outlining the circumstances that were both established as factual and that were potentially compensable under the Act:

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<sup>2</sup> 5 U.S.C. §§ 8101-8193.

<sup>3</sup> 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).

<sup>4</sup> *Mary J. Briggs*, 37 ECAB 578 (1986).

<sup>5</sup> *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

<sup>6</sup> See *Morris Scanlon*, 11 ECAB 384, 385 (1960).

<sup>7</sup> See *William E. Enright*, 31 ECAB 426, 430 (1980).

- (1) Reduction of the number of letter carriers and clerks on the workforce, causing increased workload and stress for all the employees, including the claimant.
- (2) Loss of a supervisor with no replacement, causing more work for the claimant.
- (3) Working 6 days per week, 10 to 12 hours per day.

With these findings, the Office accepted that appellant submitted sufficient factual evidence to establish that he experienced a specific event, incident or exposure occurring at the time, place and in the manner alleged. What remains is for appellant to establish that, at least one of these circumstances caused or contributed to his seizure disorder, the injury for which he now seeks compensation.

The medical opinion evidence submitted in this case does not establish the critical element of causal relationship. Dr. Chetty, appellant's internist, completed a form report on April 20, 2005 and a narrative report on April 21, 2005, but neither provided a specific history of injury. His form report stated that appellant was depressed and laden with anxiety secondary to "job-related issues." His narrative report stated that work was a "stressful situation" for appellant and that the "work environment" increased his stress and anxiety levels. These descriptions are too vague to demonstrate that Dr. Chetty understood the specific circumstances or employment factors that the Office accepted as factual and compensable.<sup>8</sup> This diminishes the value of his opinion.<sup>9</sup>

Dr. Chetty's opinion also suffers because it is not well reasoned. The form report supported causal relationship without explanation. The narrative report stated that appellant's symptoms appeared to be exacerbated by stress, that the vast majority of his episodes had occurred while he was at work and, therefore, the work environment increased the likelihood of these events. But the mere fact that a condition manifests itself or worsens during a period of federal employment raises no inference of causal relationship between the two.<sup>10</sup> Temporal relationships, by themselves, are not sufficient to establish relationships of causation. Causal relationship must be established by sound medical reasoning explaining the nature of the relationship between the diagnosed condition and the established incident or factor of employment. Dr. Chetty did not explain how appellant's emotional reaction to the accepted factors of employment exacerbated his simple partial sensory seizures. Complicating this task is

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<sup>8</sup> *George Tseko*, 40 ECAB 948 (1989) (finding that the factual information related by a physician, who reported only that the claimant was subjected to "supervisory harassment" without identifying specific events of harassment and the times and places at which they occurred in sufficient detail, was too vague to support the claim); *Kathrine W. Brown*, 10 ECAB 618 (1959) (finding that the physician's report was insufficient to establish causal relationship because the actual circumstances upon which he predicated his conclusion that the claimant was concerned with "job insecurity" were not determinable, since he recited none of the circumstances).

<sup>9</sup> Medical conclusions based on inaccurate or incomplete histories are of little probative or evidentiary value. *E.g.*, *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).

<sup>10</sup> *E.g.*, *Steven R. Piper*, 39 ECAB 312 (1987). Not all heart attacks that occur at work, for example, are caused by work.

the fact that he could not identify the cause of the seizures. He stated that the seizures were likely secondary to brain lesions, but these lesions were not seen on MRI scan. Dr. Chetty stated that it was also possible appellant had a small ischemic event in the past “which may be causing his seizures.” Then he stated that other possibilities included idiopathic or unknown causes. To establish that job stress exacerbated appellant’s seizure disorder, Dr. Chetty must acknowledge the specific circumstances that the Office accepts as factual and he must explain to a reasonable medical certainty how, physiologically, these circumstances exacerbated appellant’s seizure disorder. This requires some discussion of the nature of simple partial sensory seizures and a sound, nonspeculative explanation of how stress exacerbates the disorder.

The only other medical evidence that supports causal relationship is the August 23, 2005 report of Dr. Johnson, appellant’s neurologist, who unequivocally stated that appellant’s seizures were exacerbated by stress, but the only explanation he provided was the apparent temporal relationship: since appellant stopped working his old job, which was his primary stress generator, he had no further seizures. While this may be true, it does not explain how stress neurologically exacerbated appellant’s seizures. The lack of sound medical reasoning diminishes the value of Dr. Johnson’s opinion.

The Board will affirm the Office’s October 11, 2005 decision accepting appellant’s claim for “adjustment disorder depressed.” The medical opinion evidence does not establish that the accepted factors of federal employment caused or aggravated appellant’s simple partial sensory seizures and because appellant has not established that he sustained a seizure disorder in the performance of duty, the Board will affirm the Office’s February 3, 2006 decision denying his claims for resulting wage loss.<sup>11</sup>

### **CONCLUSION**

The Board finds that appellant has not met his burden of proof to establish that he sustained a seizure disorder in the performance of duty. He did not submit a medical opinion that was based on a complete factual and medical background, that was of reasonable medical certainty and that was supported by sound medical rationale explaining the nature of the relationship between his simple partial sensory seizure condition and the established factors of his federal employment.

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<sup>11</sup> There is no medical opinion evidence establishing that the accepted condition of adjustment disorder depressed caused disability for work for any of the specific periods claimed.

**ORDER**

**IT IS HEREBY ORDERED THAT** the February 3, 2006 and October 11, 2005 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: November 3, 2006  
Washington, DC

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

David S. Gerson, Judge  
Employees' Compensation Appeals Board

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