

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

W.F., Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Memphis, TN, Employer**

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**Docket No. 09-2017
Issued: April 16, 2010**

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

Case Submitted on the Record

DECISION AND ORDER

Before:

ALEC J. KOROMILAS, Chief Judge
DAVID S. GERSON, Judge
MICHAEL E. GROOM, Alternate Judge

JURISDICTION

On August 5, 2009 appellant filed a timely appeal of a July 1, 2009 decision of the Office of Workers' Compensation Programs denying his claim for compensation. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3(e), the Board has jurisdiction over the merits of this case.

ISSUE

The issue is whether appellant met his burden of proof to establish that he sustained an occupational disease in the performance of duty.

FACTUAL HISTORY

On April 24, 2009 appellant, then a 59-year-old mail handler, filed an occupational disease claim alleging that he developed hemorrhoids from lifting heavy trays of mail in the performance of duty. He first realized that his condition was caused or aggravated by his employment activities on April 21, 2009. Appellant did not stop work.

In a May 11, 2009 statement, appellant's supervisor described the nature of appellant's job duties and indicated the duration he performed each. She advised that appellant's job

required lifting trays of mail up to 40 pounds and sacks of mail up to 70 pounds. The supervisor noted that appellant reported missing work from April 24 to 28, 2009 due to an occupational illness. She had no first-hand knowledge of appellant's medical condition.

On May 21, 2009 the Office advised appellant of the factual and medical evidence necessary to establish his claim and allowed him 30 days to submit such evidence. In particular, it requested a physician's report with an opinion on whether appellant's job duties caused his medical condition.

In an undated work status report, Dr. Richard Donlon, a Board-certified internist, advised that appellant could work restricted duty from April 27 to May 27, 2009. The report provided lifting restrictions "due to [appellant's] medical condition." In a May 5, 2009 Family and Medical Leave Act (FMLA) form, Dr. Donlon indicated that appellant's condition commenced on April 15, 2009. He opined that appellant did not need to stop work. Dr. Donlon advised a lifting restriction due to appellant's large internal hemorrhoid. He recommended elective surgery for this condition.

In a July 1, 2009 decision, the Office denied appellant's claim finding that the medical evidence did not provide a physician's explanation regarding how the claimed condition was caused by appellant's employment duties.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act has the burden of establishing the essential elements of his or her claim, including the fact that the individual is an "employee of the United States" within the meaning of the Act; that the claim was filed within the applicable time limitation; that an injury was sustained while 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. These are the essential elements of each and every compensation claim regardless of whether the claim is predicated on a traumatic injury or an occupational disease.¹

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 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 diagnosed condition is causally related to the employment factors identified by the claimant.²

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence, which includes a physician's rationalized opinion on whether there is a causal relationship between the employee's diagnosed condition and the

¹ *J.E.*, 59 ECAB ___ (Docket No. 07-814, issued October 2, 2007); *Elaine Pendleton*, 40 ECAB 1143 (1989).

² *D.I.*, 59 ECAB ___ (Docket No. 07-1534, issued November 6, 2007); *Roy L. Humphrey*, 57 ECAB 238 (2005).

compensable 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 condition and the specific employment factors identified by the employee.³

ANALYSIS

The record reflects that appellant's job requires lifting trays of mail. The Board finds that appellant submitted insufficient medical evidence to establish that he has a diagnosed hemorrhoid condition causally related to this employment activity.

In a May 5, 2009 FMLA form, Dr. Donlon indicated that appellant had a hemorrhoid condition but did not discuss whether it was caused or aggravated by his duties as a mail handler. The Board has held that medical evidence that does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship.⁴ The Board notes that appellant's entitlement, if any, to benefits under the FMLA does not establish entitlement to benefits under the Act. Under the Act, to establish compensability, an employee's condition must be shown to be causally related to accepted factors of his or her federal employment.⁵ The May 5, 2009 report does not address whether work factors such as lifting at work caused appellant's medical condition or need for treatment.

Dr. Donlon's undated work status report opined that appellant was able to work with lifting restrictions "due to [his] medical condition." However, he did not address whether any diagnosed medical condition was due to particular employment factors. The general reference to a "medical condition" does not provide a specific diagnosis or addresses whether appellant's employment duties caused his hemorrhoid condition.

The Office notified appellant of the evidence needed to establish his claim on May 21, 2009. Specifically, it advised him to submit a physician's report with a reasoned medical explanation of how appellant's work activities contributed to his hemorrhoid condition. Appellant did not submit a reasoned medical opinion on how lifting performed at work caused or aggravated the claimed medical condition.

For these reasons, the medical evidence is insufficient to establish appellant's occupational disease claim.

CONCLUSION

The Board finds that appellant did not meet his burden of proof to establish that he sustained an occupational disease in the performance of duty.

³ *I.J.*, 59 ECAB ___ (Docket No. 07-2362, issued March 11, 2008); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

⁴ *See S.E.*, 60 ECAB ___ (Docket No. 08-2214, issued May 6, 2009).

⁵ *See J.F.*, 59 ECAB ___ (Docket No. 07-308, issued January 25, 2008) (the determination of an employee's rights or remedies under other statutory authority does not establish entitlement to benefits under the Act).

ORDER

IT IS HEREBY ORDERED THAT the Office of Workers' Compensation Programs' decision dated July 1, 2009 is affirmed.

Issued: April 16, 2010
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