

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of WAYNE ROBERTS and U.S. POSTAL SERVICE,
POST OFFICE, Saranac Lake, N.Y.

*Docket No. 96-2222; Submitted on the Record;
Issued June 23, 1998*

DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,
WILLIE T.C. THOMAS

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

On March 24, 1995 appellant, a 47-year-old letter carrier, allegedly sustained an injury to his right arm, while pulling on the emergency brake in his mail truck. On April 6, 1995 appellant filed a Form CA-1 claim based on traumatic injury, seeking continuation of pay based on the alleged injury to his right arm due to the employment incident of March 24, 1995.

Appellant subsequently submitted a Form CA-16 dated April 6, 1995 from Dr. George Cook, Board-certified in family practice and pediatrics, who examined and treated appellant on April 6, 1995, for the alleged injuries resulting from the March 24, 1995 work incident. Dr. Cook stated in the form that appellant had sustained an injury to his right shoulder on March 24, 1995, while engaging the emergency brake in a postal truck and noted that he was experiencing pain in his upper right arm. Dr. Cook also completed a limited-duty status form from the employing establishment dated April 6, 1995. These forms, however, did not contain a probative, rationalized medical opinion regarding whether appellant sustained an injury or disability on March 24, 1995 causally related to employment factors.

Appellant filed a Form CA-2 claim for recurrence of disability, which was received by the Office of Workers' Compensation Programs on March 21, 1996,¹ indicating that on March 2, 1996 he had experienced "soreness to his shoulder and arm, which never went away," which was caused or aggravated by his alleged March 24, 1995 employment incident.

On March 27, 1996 Dr. Bradford Stephens, a specialist in general surgery, requested authorization from the Office for a magnetic resonance imaging (MRI) scan of appellant's right shoulder, in addition to physiotherapy for appellant's right arm.

¹ Appellant stated on the form that the date of filing was November 28, 1996, which was evidently a mistake.

In a letter to appellant dated March 29, 1996, the Office advised appellant that the original claim for an injury, which allegedly occurred on March 24, 1995 had never been adjudicated and that the medical evidence he had submitted was insufficient to support a claim for an employment-related injury and a recurrence of said injury. The Office, therefore, requested that appellant submit additional information in support of his claim and specifically requested a medical report and opinion from a physician, supported by medical reasons, as to how the reported work incident caused or aggravated the claimed injury. The Office further requested that appellant submit a statement indicating how the injury occurred and why he waited nearly ten days to report his injury. The Office stated that appellant had 30 days in which to submit the requested information.

In response to the Office's March 29, 1996 letter, appellant submitted an accident report from the employing establishment dated March 24, 1995, which essentially corroborated the information he submitted in his Form CA-1. Appellant also submitted an undated, handwritten statement wherein he stated that the reason he had waited 10 days to report his injury was because, although it didn't seem that severe at first, the pain in his shoulder did not abate, so he felt it necessary to seek medical treatment.

The Office also received an April 16, 1996 letter, from the employing establishment stating that it was contesting the claim because the medical documentation did not support fact of injury.

By decision dated June 13, 1996, the Office denied appellant's claim on the grounds that the evidence of record failed to establish that appellant sustained the claimed injury in the performance of duty. In a memorandum to the Director, the claims examiner indicated that although the evidence of file supported the fact that the claimed event, incident, or exposure occurred at the time, place and in the manner alleged, the medical evidence appellant submitted was not sufficient to establish that a medical condition had resulted from the accepted trauma or exposure.

By letter dated August 24, 1996, the Office stated that it had received additional evidence pertaining to appellant's claim, namely a medical report from Dr. Stephens dated March 19, 1996 and an x-ray report from that date. The claims examiner stated that upon review of this evidence,² he had determined that it was not sufficient to overcome the deficiencies in appellant's claim as noted in the Office's June 13, 1996 decision. The claims examiner stated that the new evidence lacked probative value because it failed to provide a sufficient medical opinion explaining how the diagnosed medical condition was causally related to the March 24, 1995 employment injury and the specific employment factors identified by the claimant.

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

² These documents were referred to in the employing establishment's April 16, 1996 letter and had apparently been received by the Office on March 27, 1996. For whatever reason, however, the claims examiner had not received and reviewed these documents prior to his June 13, 1996 decision.

An employee seeking benefits under the Federal Employees' Compensation Act³ has the burden of establishing that 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 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 are causally related to the employment injury.⁴ These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁵

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it must first be determined whether a "fact of injury" has been established. First, the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time, place and in the manner alleged.⁶ Second, the employee must submit sufficient evidence, generally only in the form of medical evidence, to establish that the employment incident caused a personal injury.⁷ The medical evidence required to establish causal relationship is usually rationalized medical 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, 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 claimant.⁸

In the present case, it is uncontested that appellant experienced the employment incident at the time, place and in the manner alleged. However, the question of whether an employment incident caused a personal injury generally can be established only by medical evidence⁹ and appellant has not submitted rationalized, probative medical evidence to establish that the employment incident on March 24, 1995 caused a personal injury and resultant disability.

In the present case, the only medical evidence bearing on causal relationship is Dr. Stephens' March 19, 1996 report and the April 6, 1995 Form CA-16 of Dr. Cook. Dr. Stephens' report provided a description of the injury, stated findings upon examination and noted that x-rays of the shoulder showed some calcium build up on the greater tuberosity humerus, which constituted changes of the AC joint. Dr. Stephens diagnosed "a rotator cuff"

³ 5 U.S.C. §§ 8101-8193.

⁴ *Joe Cameron*, 42 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁵ *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁶ *John J. Carlone*, 41 ECAB 354 (1989).

⁷ *Id.* For a definition of the term "injury," see 20 C.F.R. § 10.5(a)(14).

⁸ *Id.*

⁹ See *John J. Carlone*, *supra* note 6.

and indicated his intention to set up a therapy program for appellant and have him undergo an MRI test. However, Dr. Stephens did not provide a probative, rationalized medical opinion sufficient to establish that appellant sustained an injury or disability on March 24, 1995 causally related to employment factors.

In addition, Dr. Cook's April 6, 1995 Form CA-16 merely provided a brief, one-sentence history of the incident and a one-sentence notation that appellant sustained an injury to his right shoulder on March 24, 1995, while engaging the emergency brake in a postal truck and noted that he was experiencing pain in his upper right arm. Dr. Cook also did not provide an opinion regarding the causal relationship of appellant's right arm condition to the March 24, 1995 employment injury.

An award of compensation may not be based on surmise, conjecture, or speculation. Neither the fact that appellant's condition became apparent during a period of employment nor the belief that her condition was caused, precipitated or aggravated by her employment is sufficient to establish causal relationship. Causal relationship must be established by rationalized medical opinion evidence. Appellant failed to submit such evidence and the Office, therefore, properly denied appellant's claim for compensation.

The opinions of Drs. Stephens and Cook on causal relationship are of limited probative value in that they did not provide adequate medical rationale in support of their conclusions.¹⁰ They did not sufficiently describe or explain the medical process through which the April 14, 1995 work accident would have been competent to cause the claimed injuries. Thus, the Office's decision is affirmed.

Lastly, notwithstanding the Board's affirmance of the Office's June 13, 1996 decision denying benefits, the Board finds that appellant is still entitled to reimbursement for or payment of expenses incurred for medical treatment for the period April 6, 1995, the date the employing establishment official signed the Form CA-16, Authorization for Examination and/or Treatment, to June 5, 1995, the date 60 days from the official's signature (as such authorization was not terminated before that period). By Form CA-16, Authorization for Examination and/or Treatment, signed by an employing establishment official on April 6, 1995 the employing establishment authorized Dr. Cook to provide medical care for a period of up to 60 days from that date. The employing establishment's authorization for appellant to obtain medical examination and/or treatment created a contractual obligation to pay for the cost of necessary medical treatment and emergency surgery regardless of the action taken on the claim.¹¹

¹⁰ *William C. Thomas*, 45 ECAB 591 (1994).

¹¹ *Robert F. Hamilton*, 41 ECAB 431 (1990); *Frederick J. Williams*, 35 ECAB 805 (1984); 20 C.F.R. § 10.403.

The decisions of the Office of Workers' Compensation Programs dated June 13 and August 24, 1996 are hereby affirmed as modified.

Dated, Washington, D.C.
June 23, 1998

Michael J. Walsh
Chairman

David S. Gerson
Member

Willie T.C. Thomas
Alternate Member