

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of DIANE D. SCHUMACHER and PEACE CORPS,
PEACE CORPS VOLUNTEER SERVICE, Washington, DC

*Docket No. 97-2325; Submitted on the Record;
Issued August 23, 1999*

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
BRADLEY T. KNOTT

The issue is whether appellant met her burden of proof in establishing that her accepted medical condition, including blastocystis hominis and entamoeba histolytica, caused temporary total disability.

On January 21, 1995 appellant, then a Peace Corps volunteer, filed an occupational claim, Form CA-2, alleging that she sustained blastocystis hominis and entamoeba histolytica resulting from her employment with the employing establishment in Mali. She stopped working for the employing establishment on May 28, 1993, sought other employment but had trouble working consistently and has not worked since September 20, 1995. The Office of Workers' Compensation Programs accepted appellant's claim for blastocystis hominis, entamoeba coli, entamoeba hartmanni and yeast infections caused by parasites.

By letter dated March 6, 1996, the Office requested that appellant submit a rationalized medical report from his attending physician explaining how the chronic fatigue syndrome was related to the accepted condition.

In a report dated March 19, 1996, Dr. Pierre Brunschwig, a family practitioner and appellant's treating physician, considered her history of injury, performed diagnostic tests for parasites and stated that, in addition to her chronic parasitosis, appellant ran the risk of developing chronic fatigue and that chronic fatigue was associated with blastocystis hominis and was directly related to appellant's current condition.

The Office referred appellant to Dr. Kenneth S. Greenberg, an osteopath and second opinion physician, who in a report dated May 30, 1996, opined that appellant's exposure to blastocystis hominis while working for the employing establishment might be responsible for her subjective symptomatology and that in reviewing the literature, episodes of fatigue could occur in symptomatic and asymptomatic patients. He stated that "[i]t is quite controversial if, indeed, this is a pathogenic enteric protozoan." Dr. Greenberg also stated that it was difficult to

ascertain whether appellant was a carrier of blastocystis hominis, that there was no way to prove or disprove that her subjective symptomatology was directly or indirectly associated with blastocystis hominis, but from a temporal aspect, that possibility “needs to be considered” as she did not have any symptoms prior to identification of the protozoan.

In a memorandum to the file dated June 11, 1996, the Office noted that appellant had called to discuss her claim and that she indicated that she was unemployable since she must take time off each month due to chronic fatigue syndrome. The Office noted that chronic fatigue syndrome had not been accepted as a claim and that if it was accepted after the second opinion physician, the wage loss related to chronic fatigue syndrome could be further developed.

In a report dated September 10, 1996, the district medical adviser stated that there is “quite a controversy among experts as to whether “chronic fatigue syndrome” is a real diagnosis” and that “[s]everal causes have been suspected but unproven.” He stated that the accepted diagnosis was enough to cause periodic episodes of weakness and fatigue and believed the diagnosis of chronic fatigue syndrome was speculative and incapable of being proven.

By decision dated November 5, 1996, the Office denied the claim, stating that the evidence of record failed to establish that the claimed medical condition of chronic fatigue syndrome was causally related to appellant’s accepted activities or employment factors.

By letter dated March 6, 1997, appellant requested reconsideration of the decision and submitted a medical report dated February 24, 1997 from Dr. Brunschwig in which he considered appellant’s history of injury and stated that he disagreed with the diagnosis of chronic fatigue syndrome. He stated that appellant suffered from chronic parasitosis and nutritional abnormalities including a low intracellular magnesium level which were directly related to her chronic parasitosis which she acquired while in Mali and was producing her disability. Dr. Brunschwig stated that “it was very clear” to him that appellant’s condition related directly back to her stay in Mali with the employing establishment as her symptoms did not appear until late in her stay in Mali and her subsequent return to the United States. He also stated that the diagnosis of chronic fatigue syndrome did not directly apply and did not have a direct etiology. Dr. Brunschwig stated that appellant’s complaint of fatigue is related directly to her chronic parasitosis.

By decision dated June 27, 1997, the Office denied appellant’s reconsideration request.

The Board finds that this case is not in posture for decision and requires further development of the evidence.

To establish that an injury was sustained in the performance of duty, an appellant must submit the following: (1) medical evidence establishing the presence or existence of the 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 claimant were the proximate cause of the condition for which compensation is claimed or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by claimant. The medical evidence required to establish causal relationship, generally, is

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 appellant'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 appellant.¹

In the present case, in its November 5, 1996 and June 27, 1997 decisions, the Office denied appellant's claim, stating that appellant had not established that her chronic fatigue syndrome was causally related to her federal employment. The Office erred, however, in evaluating the medical evidence in terms of whether it establishes that appellant's chronic fatigue syndrome is work related as there is no medical evidence in the record diagnosing that condition. The accepted condition was blastocystis hominus, entamoeba coli, entamoeba hartmanni and yeast infections caused by parasites. In his February 24, 1997 report, Dr. Brunschwig, emphasized that his diagnosis was not of chronic fatigue syndrome but of chronic parasitosis and nutritional abnormalities including low intracellular magnesium level which were related to appellant's chronic parasitosis. He stated that it was appellant's chronic parasitosis which prevented her from working and she acquired this condition in Mali while working for the employing establishment. Dr. Brunschwig stated that appellant's complaint of fatigue was directly related to her parasitosis. The case must therefore be remanded for the Office to evaluate the medical evidence in terms of whether appellant is temporarily totally disabled due to her accepted condition of blastocystis hominus, entamoeba coli, entamoeba hartmanni and yeast infections caused by parasites. Following this and any further development the Office deems necessary, the Office shall issue a *de novo* decision.²

¹ See *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

² See *Horace Langhorne*, 29 ECAB 820, 822 (1978).

The decisions of the Office of Workers' Compensation Programs dated June 27, 1997 and November 5, 1996 are vacated and the case is remanded for further consideration in a manner consistent with this opinion.

Dated, Washington, D.C.
August 23, 1999

David S. Gerson
Member

Willie T.C. Thomas
Alternate Member

Bradley T. Knott
Alternate Member