

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of KAREN L. ANDERSON and U.S. POSTAL SERVICE,  
POST OFFICE, Long Beach, CA

*Docket No. 00-292; Submitted on the Record;  
Issued February 8, 2000*

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DECISION and ORDER

Before DAVID S. GERSON, MICHAEL E. GROOM,  
BRADLEY T. KNOTT

The issue is whether the Office of Workers' Compensation Programs properly denied appellant's claim for compensation for the period commencing August 4, 1996.

The Board has duly reviewed the case record and concludes that the Office properly denied appellant's claim for compensation for the period commencing August 4, 1996.

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 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 is causally related to the employment injury.<sup>1</sup> These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or occupational disease.<sup>2</sup> As part of this burden the claimant must present rationalized medical evidence based upon a complete factual and medical background showing causal relationship.<sup>3</sup>

This case has been on appeal previously.<sup>4</sup> In the prior appeal, the Board reviewed March 6 and February 7, 1996 decisions by which the Office denied appellant's claim that bending, lifting and prolonged standing in the performance of duty as a letter carrier had

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<sup>1</sup> *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

<sup>2</sup> *Daniel J. Overfield*, 42 ECAB 718, 721 (1991).

<sup>3</sup> *Joseph T. Gulla*, 36 ECAB 516 (1985).

<sup>4</sup> Docket No. 96-2259 (July 21, 1998). The facts and history surrounding the prior appeals are set forth in the initial decision and are hereby incorporated by reference.

aggravated her arthritis condition. The Board found that the Office's denial of the claim was proper because appellant failed to submit any medical evidence to support her claim.

On May 22, 1999 appellant requested reconsideration before the Office and submitted the medical reports from Dr. Joseph B. Alban, a Board-certified orthopedic surgeon, dated September 28, 1995 and May 27, 1996. In his September 28, 1995 report, Dr. Alban reviewed appellant's history, performed a physical examination and reviewed x-rays of the dorsal, lumbar and cervical spine. He diagnosed spondylosis of the cervical, dorsal and lumbar spine. Dr. Alban stated:

“The pain, and wear and tear changes she has developed throughout her cervical, dorsal and lumbar spine are a result of her working activities with the [employing establishment] and the natural progression of degenerative joint disease of the cervical dorsal and lumbar spine.

“Because her condition is aggravated by her work activities, treatment should be provided on an industrial basis. At this point, she should be on light duties with work limited to five hours per day.”

He prescribed medication, stretching and the application of heat. Dr. Alban stated that appellant “will be on limited duties for the next eight weeks” and he would see her at the expiration of that time period.

In his May 27, 1996 report, Dr. Alban stated that appellant had worked her regular duties until January 25, 1996 when, in response to her complaints of increased lumbar spine pain, which was aggravated by prolonged sitting, he placed her on modified duty, with no repetitive bending and stooping. He stated that he last saw appellant on April 25, 1996 and she continued with cervical spine stiffness on occasion and prolonged lumbar spine pain when bending and after prolonged sitting, as well as right elbow swelling. Dr. Alban continued her on modified duty. He concluded that appellant had permanent work restrictions, in part, consisting of working 8 hours, lifting no more than 10 pounds in an 8-hour day, and intermittent sitting, standing and walking 4 hours a day, and no bending or stooping, kneeling, squatting or climbing.

In a fitness-for-duty report dated July 3, 1996, Dr. Geoffrey M. Miller, a Board-certified orthopedic surgeon, reviewed appellant's history, performed a physical examination and diagnosed systemic osteoarthritis. He opined that appellant required permanent restrictions as described by Dr. Alban. Dr. Miller stated that the history of the onset of appellant's illness was that of a degenerative arthritic process, which was “insidious and not directly related to work activity.”

By decision dated July 14, 1999, the Office accepted appellant's claim for a temporary aggravation of her cervical and lumbar spondylosis through August 3, 1996, the date she ceased working for the employing establishment. The Office found that Dr. Alban's report did not establish that there was a permanent aggravation of her underlying degenerative condition as a result of her work duties.

Under the Federal Employees' Compensation Act,<sup>5</sup> when employment factors cause an aggravation of an underlying physical condition, the employee is entitled to compensation for the periods of disability related to the aggravation.<sup>6</sup> However, when the aggravation is temporary and leaves no permanent residuals, compensation is not payable for periods after the aggravation has ceased.<sup>7</sup> This is true even though the employee is found medically disqualified to continue in such employment because of the effect which the employment factors might have on the underlying condition. Under such circumstances, the employee's disqualification for continued employment is due to the underlying condition without any contribution by the employment.<sup>8</sup>

In the present case, in his September 28, 1995 report, Dr. Alban attributed appellant's back problem to her work activities and the natural progress of degenerative joint disease. He noted that her condition was aggravated by her work activities and she should be limited to light duty five hours a day. In his May 27, 1996 report, Dr. Alban stated that appellant required permanent restrictions at work including lifting no more than 10 pounds and intermittent sitting, standing and walking. In his July 3, 1996 fitness-for-duty report, Dr. Miller agreed with Dr. Alban that appellant required permanent restrictions but stated that appellant's condition was due to the degenerative arthritic process which was not work related. The Office accepted appellant's claim for a temporary aggravation of cervical and lumbar spondylosis through August 3, 1996, the date she stopped working due to nonwork-related stress. Dr. Alban's reports do not establish that appellant's back condition was permanently aggravated by her work activities. His reports establish that appellant's work activities temporarily aggravated her back and do not establish any employment-related disability after appellant stopped work. Absent a rationalized medical opinion explaining how her activities at work permanently aggravated her back, appellant has failed to establish her claim.

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<sup>5</sup> 5 U.S.C. §§ 8101-8193.

<sup>6</sup> *Gary R. Sieber*, 46 ECAB 215, 222 (1994); *Richard T. DeVito*, 39 ECAB 668, 673 (1988).

<sup>7</sup> *Gary R. Sieber*, *supra* note 6 at 222.

<sup>8</sup> *Gaetan F. Valenza*, 39 ECAB 1349, 1356 (1988).

The decision of the Office of Workers' Compensation Programs dated July 14, 1999 is hereby affirmed.

Dated, Washington, D.C.  
February 8, 2000

David S. Gerson  
Member

Michael E. Groom  
Alternate Member

Bradley T. Knott  
Alternate Member