U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of EARL C. MORRISON and DEPARTMENT OF THE ARMY, ANNISTON ARMY DEPOT, Anniston, AL

Docket No. 00-802; Submitted on the Record;
Issued March 7, 2001

DECISION and ORDER

Before BRADLEY T. KNOTT, A. PETER KANJORSKI, PRISCILLA ANNE SCHWAB

The issue is whether appellant has more than a 51 percent binaural hearing loss for which he received a schedule award.

The Board has duly reviewed the case record in the present appeal and finds that appellant has no more than a 51 percent binaural hearing loss for which he received a schedule award.

On October 9, 1981 appellant, then a 53-year-old artillery repairer, filed a notice of occupational disease, alleging that he sustained a hearing loss causally related to his federal employment. On December 8, 1982 the Office of Workers' Compensation Programs issued appellant a schedule award for 51 percent bilateral hearing loss.

In a letter dated August 10, 1999, appellant alleged that his hearing loss had increased. In support of his claim, appellant submitted a report dated October 28, 1999 from Dr. Blane E. Bateman, a Board-certified otolaryngologist. He stated that appellant's most recent audiogram in June 1999 showed a major hearing loss in both ears and that his "speech discrimination scores range in the 20 percent range bilaterally." He added: "I would think that if [appellant] … worked in [a] loud noise environment that he could certainly have experienced a large portion of his current hearing loss from that employment scenario."

By decision dated November 24, 1999, the Office denied appellant's claim for an increase in hearing loss.[1]

[1] In its November 24, 1999 decision, the Office noted that it considered appellant's statements "as a claim for additional schedule award benefits."

An employee seeking benefits under the Federal Employees' Compensation Act[2] has the burden of establishing the essential elements of his claim, including that fact that an injury was sustained in the performance of duty as alleged and that any disability and/or specific condition for which compensation are claimed is causally related to the employment injury.[3]

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 the 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 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.[4] The medical evidence required to establish a causal relationship, generally, is rationalized medical opinion evidence.[5]

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,[6] must be one of reasonable medical certainty[7] 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]

The mere fact that a condition manifests itself during a period of employment does not raise an inference that there is a causal relationship between the two. Neither the fact that the condition became apparent during a period of employment, nor the belief of appellant that the condition was caused by or aggravated by employment conditions is sufficient to establish causal relation.[9]

In this case, Dr. Bateman, appellant's treating physician, speculated that appellant's hearing loss was attributable to his federal employment. This opinion is of no probative value

[2] 5 U.S.C. §§ 8101-8193.

[3] *Elaine Pendleton*, 40 ECAB 1143 (1989).

[4] *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

[5] The Board has held that in certain cases, where the causal connection is so obvious, expert medical testimony may be dispensed with to establish a claim; *see Naomi A. Lilly*, 10 ECAB 560, 572-73 (1959). The instant case, however, is not a case of obvious causal connection.

[6] *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

[7] *Morris Scanlon*, 11 ECAB 384-85 (1960).

[8] *William E. Enright*, 31 ECAB 426, 430 (1980).

[9] *Manuel Garcia*, 37 ECAB 767, 773 (1986); *Juanita C. Rogers*, 34 ECAB 544, 546 (1983).

because the Office had previously accepted that appellant sustained a work-related hearing loss. Dr. Bateman's report did not address whether appellant's hearing loss had increased. Therefore, the Office properly denied further compensation through a schedule award.

The November 24, 1999 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC
March 7, 2001

Bradley T. Knott
Alternate Member

A. Peter Kanjorski
Alternate Member

Priscilla Anne Schwab
Alternate Member