

RECEIVED JAN 10 2013

U S DEPARTMENT OF LABOR

OFFICE OF WORKERS' COMP PROGRAMS
PO BOX 8300 DISTRICT 6 JAC
LONDON, KY 40742-8300
Phone: (904) 366-0100

January 14, 2013

Date of Injury:
Employee:

Dear Ms _____ :

This concerns your compensation case and your request for reconsideration received 11/26/2012.

We have evaluated the evidence submitted in support of your request for review. Your employer has been advised about your application by letter dated 12/11/2012. Your case has been reviewed on its merits under Title 5, United States Code, Section 8128, in relation to your application including supporting evidence. It is determined that the previous decision should be vacated.

The Employees' Compensation Appeals Board has held that:

The medical evidence required to establish a causal relationship, generally, is rationalized medical evidence. Rationalized medical evidence is medical evidence that 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. Charles E. Burke, 47 ECAB ____ (Docket No. 94-514, issued November 9, 1995); Thomas L. Hogan, 47 ECAB ____ (Docket No. 94-682, issued January 31, 1996); Kurt R. Ellis, 47 ECAB ____ (Docket No. 94-969, issued April 1, 1996); Alberta S. Williamson, 47 ECAB ____ (Docket No. 94-1762, issued May 7, 1996); Joe L. Wilkerson, 47 ECAB ____ (Docket No. 94-1457, issued May 20, 1996).

You are currently _____ years old. You are employed as a _____ (_____) by the _____ in _____, _____. You filed a timely claim for traumatic injury, alleging that on _____ you experienced coughing, watery eyes, runny nose, burning eyes/nose/throat, shortness of breath and dizziness due to a smell in the post office.¹

¹ On _____ you filed a form CA2a Claim for Recurrence for a similar incident on _____ which was created as a new traumatic claim: _____. That claim was denied on 06/13/2011 and the denial was upheld by reconsideration decisions dated 09/23/2011 and 02/09/2012. Some of the factual and medical information for the two cases overlapped but that case remained denied due to not meeting the element of "causal relationship."

If you have a disability (a substantially limiting physical or mental impairment), please contact our office/claims examiner for information about the kinds of help available, such as communication assistance (alternate formats or sign language interpretation), accommodations and modifications.

After development, the claim was denied on 10/21/2010 due to not meeting the element of "fact of injury." After your first request for reconsideration on 09/28/2011 the decision was vacated in part, but remained denied due to not meeting "causal relationship." After you requested a new reconsideration, modification was denied by decision dated 12/01/2011


Your representative requested reconsideration on 11/26/2012. He provided legal arguments and a medical narrative dated 04/18/2012. The legal arguments will not be specifically addressed because the medical evidence is convincing. Dr. confirmed in the 04/18/2012 medical report that you had been examined on 08/27/2010, 08/30/2010, 09/02/2010, and 11/01/2010. The history of the injury was that on "... there had been a strong odor in the post office that morning. She said that she began coughing as [sic] was losing her voice." 08/27/2010 arterial blood tests were normal but the 09/10/2010 pulmonary function test was inconclusive because of continuous coughing. The diagnosis was reactive airways disease (RAD) post-chemical exposure. You were treated with medications but it took several months for the problems associated with the steroids to resolve. The nexus between the diagnosis and work exposure was given by Dr. :

It is my medical opinion that Ms work related exposures to Ethanol, 2-Butoxy Phosphate caused the Reactive Airway Disease (RAD) that she developed. The continuous, raspy cough Ms had was present because that chemical is a known cause of respiratory tract irritation, and anyone inhaling the vapors, mists, or aerosols should have been removed to fresh air immediately. Overexposure to the chemical may cause neurotoxicity and cholinesterase inhibition. Ms. provided me with a copy of the illegible notification employees received regarding their exposures on [sic] Ethanol, 2-Butoxy Phosphate.

The file contains a copy of a 09/07/2010 employee notification confirming that the substance that was tested was Ethanol, 2-Butoxy Phosphate. According to an incident report, several employees were sickened on . Air quality testing by Labs, finding that the air was within established control limits, was performed on after the incident.

The 04/18/2012 report and the corroborating evidence are sufficient to establish causal relationship. Therefore, the prior decision dated 12/01/2011 is **vacated** and your case is accepted for RAD.

Sincerely,


Alida V. Anderson
Senior Claims Examiner

PAUL H FELSER
PO BOX 10267
SAVANNAH, GA 31412

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OFFICE OF WORKERS' COMP PROGRAMS
PO BOX 8300 DISTRICT 6 JAC
LONDON, KY 40742-8300
Phone: (904) 366-0100

January 14, 2013

Date of Injury:
Employee:

Dear Ms. _____ :

This is to notify you that your claim for a traumatic injury on _____ has been accepted for the following condition(s):

<u>Diagnosed condition(s)</u>	<u>ICD-9 code(s)</u>
Reactive Airways Disease (RAD), resolved as of 11/2/11	4939 ¹

In a medical report dated 11/02/2011 Dr. Orr M. Cobb stated that this transient reactive airways disease syndrome had completely resolved as of that date. If you disagree with this determination you should follow the appeal rights attached to this letter.

Please advise all medical providers who are treating you for this injury of the accepted ICD-9 code(s). Accurate coding facilitates timely bill processing.

If the current accepted condition(s) need to be revised or additional complications related to the current accepted condition(s) need to be added, your physician should explain in writing, with medical rationale, the relationship between any additional condition and the work injury or the current accepted condition(s) noted above.

If your injury results in lost time from work, you may be eligible to receive continuation of pay (COP) until you recover or return to light duty, up to a maximum of 45 calendar days; however, you may be subject to the three-day waiting period mandated by the Postal Accountability and Enhancement Act (Public Law 109-435). If wage loss continues after your entitlement to COP expires, you may claim compensation using Form CA-7.

Please refer to the attachment entitled "Now That Your Claim Has Been Accepted" for important information pertaining to how to contact us, medical authorizations, payment of bills, and returning to work.

¹ The ICD-9 code for RAD is the same as for Asthma, unspecified.

If you have a disability (a substantially limiting physical or mental impairment), please contact our office/claims examiner for information about the kinds of help available, such as communication assistance (alternate formats or sign language interpretation), accommodations and modifications.

Sincerely,



Alida V Anderson
Senior Claims Examiner

Enclosure: NOW THAT YOUR CLAIM HAS BEEN ACCEPTED; appeal rights; reconsideration decision

NOTICE TO EMPLOYING AGENCY:

If Form CA-7 claiming compensation for wage loss is filed, you are reminded that 20 C.F.R. §10.111(c) requires the submission of a CA-7 within 5 working days. Please fully complete any form submitted and provide contact information to avoid delay of payment.

* It is noted that you challenged this claim because of the negative air testing results, brevity of the exposure, and lack of medical evidence. The evidence, however, supports that this employee is a Federal employee who sustained a traumatic injury in the performance of duty; therefore, the case has been accepted. The fact that she was exposed to a chemical smell and the nexus between the exposure and the diagnosis is explained in the attached decision. We have received a report from Dr. Robinson dated 04/18/2012 supporting causal relationship.

PAUL H FELSER
PO BOX 10267
SAVANNAH, GA 31412