U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of VIVIAN S. WILLIAMS and DEPARTMENT OF THE ARMY, HEALTH SERVICES COMMAND, Fort Benning, GA

Docket No. 99-1288; Submitted on the Record;
Issued August 17, 2000

DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON, MICHAEL E. GROOM

The issue is whether appellant has met her burden of proof to establish that she sustained an injury in the performance of duty on December 10, 1997.

On January 8, 1998 appellant, then a 46-year-old nurse, filed a notice of traumatic injury and claim for continuation of pay/compensation (Form CA-1). She alleged that on December 10, 1997 she sustained chest pains while trying to immunize an uncontrollable five-year-old child.

Appellant stopped work on December 10, 1997 and returned to work on January 5, 1998.

In an undated statement received by the Office of Workers' Compensation Programs on January 14, 1998, appellant stated that at about 12:30 p.m. on December 10, 1997 she had to hold the child down with the mother in order to provide an immunization. She then stated that she sustained chest pains as a result and she was sent to a hospital.

On January 6, 1998 the employing establishment submitted a memorandum for the record contradicting appellant's statement. Katryna van Vleck, appellant's supervisory head nurse, indicated that she reviewed the immunization log for December 10, 1997 and found the patient's chart and appellant's signature indicating that "the child received the immunizations, waited 20 minutes and voiced or showed no complaints (in regards to the immunizations)." Ms. van Vleck then called the child's parent to find out the facts of the incident. The mother indicated that the child was calm for the first shot but a little upset about the second shot. She indicated that her child was not uncontrollable and they did not have problems holding the child. The mother went further to say that it was "one of the easiest times taking her children to get a shot." She indicated nothing unusual happened, they waited twenty minutes, the same nurse checked the sites for a reaction, and then she left. This was at lunch time. The mother of the child also submitted a statement to the same effect.

A January 5, 1998 statement was also received from Dr. Curtis Hanst, an employing establishment surgeon. Dr. Hanst indicated that appellant did not report an "inciting event" that caused her pain. He stated that she was clear in stating that this had been going on for sometime. Additionally, Dr. Hanst also indicated that she had experienced left-sided chest pain since about 7:30 a.m. and it progressed from moderate to severe intensity. He also stated that she had this pain previously, that it was similar to a 1988 "heart attack" she sustained and that she was under the care of a cardiologist and had recently done a treadmill test.

On January 22, 1998 the Office requested that appellant submit additional information to clarify her allegations. The Office also requested medical documentation explaining how the reported work incident caused or aggravated the claimed injury.

On February 10, 1998 appellant submitted two statements from clerks that were in the area when the immunization was given. The information contained in both of the statements was essentially that both clerks heard a child crying. Appellant did not supply medical documentation although she indicated that St. Francis Hospital would send a report of treatment and test results.

In a decision dated February 26, 1998, the Office denied appellant's claim for compensation as she did not establish the fact of injury.

Appellant requested an oral hearing in an undated statement received by the Office on March 20, 1998. The hearing was held on October 27, 1998.

Prior to the hearing, appellant submitted reports and treatment notes from Drs. Rajinder Chhokar, a Board-certified cardiologist, and Dr. Gerson Escondo, a psychiatrist and neurologist. Dr. Chhokar, in a report dated April 22, 1998, advised that he had seen appellant on December 18, 1997 for extreme anxiety and he assured her the problem was not cardiac in nature. In a report dated March 2, 1998, Dr. Chhokar stated that appellant underwent cardiac catheterization for evaluation of chest pain when she had an extreme situation of anxiety. He indicated that she was to be seen by a psychiatrist to resolve this problem. Dr. Chhokar also stated in an office note of February 25, 1998 that appellant felt a great benefit from talking to Dr. Escondo and that she was feeling better. The clinical notes from Dr. Escondo dated February 20, March 10 and April 10, 1998 mention that appellant was giving an immunization in December 1997 and she almost stuck herself and another. His notes described some fear of shots by appellant and frustration.

By decision dated January 5, 1999, the Office hearing representative affirmed the February 26, 1998 decision.

The Board finds that appellant has not met her burden of proof to establish that she sustained an injury in the performance of duty on December 10, 1997.

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 are causally related to the employment injury."[1] 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.[2]

In order to determine whether an employee actually sustained an injury in the performance of duty, the Office begins with an analysis of whether fact of injury has been established. Generally, fact of injury consists of two components which must be considered in conjunction with one another.

The first component to be established is that the employee actually experienced the employment incident which is alleged to have occurred.[3]

The second component is whether the employment incident caused a personal injury and generally can be established only by medical evidence. To establish a causal relationship between the condition, as well as any attendant disability, claimed and the employment event or incident, the employee must submit rationalized medical opinion evidence, based on a complete factual and medical background, supporting such a causal relationship.[4]

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. The weight of medical evidence is determined by its reliability, its probative value, its convincing quality, the care of analysis manifested and the medical rationale expressed in support of the physician's opinion.[5]

In the present case, after clarifying some initial discrepancies, the Office found that the December 10, 1997 incident occurred at the time, place and in the manner alleged *i.e.*, that appellant gave two shots to a child who was crying and became physically resistant.

However, the Board finds that appellant has not established that the December 10, 1997 employment incident resulted in an injury. Appellant submitted clinical notes from Dr. Escondo, dated March 10 and April 10, 1998. The notes did not express a definite diagnosis or an opinion that the claimant's condition was causally related to the accepted incident and medical rationale

[1] *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

[2] *Daniel J. Overfield*, 42 ECAB 718, 721 (1991).

[3] *Elaine Pendleton, supra* note 1.

[4] *See* 20 C.F.R. § 10.110(a); *John M. Tornello*, 35 ECAB 234 (1983).

[5] *James Mack*, 43 ECAB 321 (1991).

supporting such an opinion based upon a complete history.[6] She also submitted reports from Dr. Chhokar. However, he did not offer any type of rationale explaining the nature of the relationship between appellant's condition and the specific employment factors identified by the claimant.[7] Dr. Chhokar generally noted that appellant had "anxiety" and that cardiac catheterization was performed but did not relate a specific condition to the December 10, 1997 incident. Consequently, the medical evidence of record fails to establish a causal relationship between appellant's condition and the employment incident of December 10, 1997.[8] As she has not submitted the requisite medical evidence needed to establish her claim, she has failed to meet her burden of proof.

For the above-noted reasons, appellant has not established that she sustained an injury in the performance of duty on December 10, 1997.

The decision of the Office of Workers' Compensation Programs dated January 5, 1999 is affirmed.

Dated, Washington, D.C.
August 17, 2000

Michael J. Walsh
Chairman

David S. Gerson
Member

Michael E. Groom
Alternate Member

[6] *Arlonia B. Taylor*, 44 ECAB 591 (1993).

[7] *Id.*

[8] *Id.*