U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of PATRICIA McGEACHY and DEPARTMENT OF AGRICULTURE, FOOD SAFETY & INSPECTION SERVICE, Tar Heel, NC

Docket No. 00-33; Submitted on the Record;
Issued October 12, 2000

DECISION and ORDER

Before MICHAEL J. WALSH, A. PETER KANJORSKI, PRISCILLA ANNE SCHWAB

The issue is whether appellant has established that she sustained an injury while in the performance of duty.

Appellant, then a 43-year-old food inspector, filed a traumatic injury claim alleging that on May 27, 1999 she burned her left foot while performing work duties. Appellant alleged that as she washed contamination from her boots while working, hot water splashed into her left boot and burned her foot.[1] Appellant stopped work on June 2, 1999 and returned to work on June 21, 1999.

On July 9, 1999 appellant submitted a work slip signed by a physician's assistant, which indicated that she was disabled from work from June 10 through 18, 1999 and was able to return to work on June 21, 1999. Appellant submitted no further evidence to support her claim at that time. On July 16, 1999 the Office of Workers' Compensation Programs requested additional factual and medical evidence from appellant regarding her claim and allowed 30 days for a response.

Appellant submitted a response to questions contained in the Office's July 16, 1999 letter, along with a narrative statement dated July 18, 1999 and an undated CA-16 form signed by a physician's assistant, requesting authorization for examination and treatment. Appellant alleged that she submitted an injury report and a written statement to her supervisor the day of the accident; however, she claimed her supervisor lost the documentation. Appellant also alleged that she did not seek medical attention right away because her foot did not immediately cause her trouble. Appellant further indicated that she later asked her physician whether or not

[1] On the reverse side of her claim form, appellant's supervisor challenged her claim for continuation of pay asserting that the injury was not properly reported within 30 days following the injury. In a second "revised" CA-1 form, a supervisory report completed July 14, 1999 indicated that notice was received on May 27, 1999 of an injury on that same date.

her medical documentation had been submitted and appellant was informed that he would "take care of it." Appellant did not provide any further medical evidence.

By decision dated August 25, 1999, the Office denied appellant's claim on the grounds that appellant had not met the requirements for establishing that she sustained an injury as alleged. The Office found that the evidence of record supported that appellant experienced the claimed event; however, the evidence did not establish that any condition or injury was diagnosed as a result. The Office found that the CA-16 form submitted by appellant was not dated or signed by a physician and that appellant failed to provide a response to pertinent questions asked in the Office letter dated July 16, 1999.

The Board finds that appellant has failed to establish that she sustained an injury while in the performance of duty.

An employee seeking benefits under the Federal Employees' Compensation Act[2] 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.[3] 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.[4]

The Office, in determining whether an employee actually sustained an injury in the performance of duty, must first consider 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.[5] The second component is whether the employment incident caused a personal injury and this generally can only be established 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.[6]

In this case, appellant initially submitted little evidence in support of her claim for a personal injury sustained in the performance of duty. The Office did accept that appellant experienced the claimed event; however, it notified appellant that the evidence submitted was insufficient to support her claim, and allowed 30 days for a response. Appellant then submitted a

[2] 5 U.S.C. §§ 8101-8193.

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

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

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

[6] *John M. Tornello*, 35 ECAB 234 (1983).

narrative statement and responded in part to the factual questions posed by the Office in its letter request.

Appellant alleged in her response to the Office that her physician had agreed to submit the requisite medical documentation to establish injury; however, the Office never received any further medical evidence relative to her claim. The only medical evidence received by the Office prior to the August 25, 1999 decision was an undated work slip and a CA-16 form signed by a physician's assistant. However, a physician's assistant is not a "physician" within the meaning of the Act and is, therefore, not competent to give a medical opinion.[7] Because the work slip and CA-16 form were not signed by a physician, neither document can be considered competent medical evidence.[8]

Causal relationship must be substantiated by reasoned medical opinion evidence, which is appellant's responsibility to submit.[9] Because appellant failed to submit any such evidence to support that her federal employment caused an injury, the Board finds that she failed to submit a *prima facie* claim for compensation.

The decision of the Office of Workers' Compensation Programs dated August 25, 1999 is affirmed.

Dated, Washington, DC
October 12, 2000

Michael J. Walsh
Chairman

A. Peter Kanjorski
Alternate Member

Priscilla Anne Schwab
Alternate Member

[7] *Guadalupe Julia Sandoval*, 41 ECAB 703 (1990); *Ausberto Guzman*, 25 ECAB 362 (1974).

[8] *Diane Williams*, 47 ECAB 613 (1996).

[9] *Earl D. Price*, 39 ECAB 1053 (1988).