U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JOHN T. HANOUMIS and DEPARTMENT OF THE NAVY, MARINE CORPS LOGISITICS BASE, Barstow, CA

Docket No. 00-1377; Submitted on the Record;
Issued January 3, 2001

DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,
PRISCILLA ANNE SCHWAB

The issue is whether appellant has met his burden of proof in establishing that he sustained an injury in the performance of duty on November 16, 1999.

On November 16, 1999 appellant, then a 46-year-old welder, filed a notice of traumatic injury, claiming that, on that day, he was on "cart" duty when he tripped and hit his chin, which caused his teeth to snap together, breaking one tooth in half. Appellant received dental care from W. Bruce Meikle, DDS, on November 18, 1999.

On December 17, 1999 the Office of Workers' Compensation Programs requested that appellant provide additional factual information and a narrative report from the attending physician. The Office afforded appellant 30 days to submit the requested information.

On January 7, 2000 the Office received three small x-rays of appellant's teeth from Dr. Meikle, but did not receive any medical narrative report regarding appellant's alleged injury.

By letter dated January 3, 2000, appellant provided the Office with additional factual information, yet did not provide the requested narrative report from his attending physician.

By decision dated January 18, 2000, the Office denied appellant's claim for compensation on the grounds that the evidence was not sufficient to establish that he sustained an injury due to the claimed incident, as required by the Federal Employees' Compensation Act.[1]

The Board finds that appellant has not met his burden of proof in establishing that he sustained an injury in the performance of duty on November 16, 1999.

An employee seeking benefits under the 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

[1] 5 U.S.C. §§ 8101-8193.

States" within the meaning of the Act, that the claim was timely filed within the applicable time limitation period 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.[2] These are the essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.[3]

To determine whether an employee has sustained a traumatic injury in the performance of duty, it must first be determined whether a "fact of injury" has been established. First, the employee must submit sufficient evidence to establish that he actually experienced the employment incident at the time, place and in the manner alleged.[4] Second, the employee must submit sufficient evidence, generally only in the form of medical evidence, to establish that the employment incident caused a personal injury.[5]

The medical evidence required to establish a causal relationship is rationalized medical opinion evidence. 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.[6]

Appellant did submit a signed factual statement to support his claim that he tripped at work and hit his chin. Because there is no inconsistent evidence of record, appellant has established that the employment incident occurred at the time, place and in the manner alleged.

Appellant did not, however, submit any rationalized medical evidence to support his claim that the incident caused an injury. Dr. Meikle did not attach any report interpreting the three x-rays or diagnosing a condition. Also, he did not provide an opinion on the cause of appellant's alleged injury or whether the broken tooth was attributable to appellant's employment. At the time the Office denied appellant's claim on January 18, 2000, the record did not contain sufficient medical evidence to support appellant's claim for compensation.[7]

The Board finds that appellant has not met his burden of proof in establishing that he sustained an injury in the performance of duty on November 16, 1999, since sufficient medical evidence was not received.

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

[3] *Delores C. Ellyett*, 41 ECAB 992, 994 (1990); *Ruthie M. Evans*, 41 ECAB 416, 423-25 (1990).

[4] *John J. Carlone*, 41 ECAB 354 (1989).

[5] *Id*. For a definition of the term "injury," *see* 20 C.F.R. § 10.5(a)(14).

[6] *Delores C. Ellyett*, *supra* note 3; *Ruthie M. Evans*, *supra* note 3.

[7] On March 10, 2000 the Office received additional evidence. Since this evidence was received after the Office's January 18, 2000 decision, it may not be considered by the Board on appeal. 20 C.F.R. § 501.2(c).

The decision of the Office of Workers' Compensation Programs dated January 18, 2000 is hereby affirmed as modified.

Dated, Washington, DC
January 3, 2001

Michael J. Walsh
Chairman

David S. Gerson
Member

Priscilla Anne Schwab
Alternate Member