

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JOHN W. MONTOYA and DEPARTMENT OF JUSTICE,
U.S. BORDER PATROL, Laredo, TX

*Docket No. 02-2249; Submitted on the Record;
Issued January 3, 2003*

DECISION and ORDER

Before ALEC J. KOROMILAS, COLLEEN DUFFY KIKO,
MICHAEL E. GROOM

The issue is whether appellant sustained an injury in the performance of duty on June 1, 2000, as alleged.

On June 1, 2000 appellant, then a 51-year-old chief patrol agent, filed a claim alleging an injury in the performance of duty that day when he walked down a wet hallway and fell. He described the nature of his injury as an abrasion on the left elbow and pain in his right wrist and hip.

The Office of Workers' Compensation Programs requested additional information, including a physician's opinion, supported by a medical explanation, on how the reported work incident caused or aggravated his diagnosed condition.

Appellant submitted medical records, including reports from his orthopedic surgeon, Dr. Rafael Parra. On September 7, 2001 Dr. Parra reported that appellant presented with complaints of severe, sharp pain radiating from the right side of the neck to the right forearm with sensation of tingling and numbness "which started on August 3, 2001." A magnetic resonance imaging (MRI) scan demonstrated a disc herniation at the C6-7 level with root compression on the right side.

On September 27, 2001 appellant underwent an anterior cervical fusion at the C6-7 level with a metallic disc spacer.

On February 12, 2002 Dr. Diego F. Menchaca, appellant's family practitioner, reported that appellant was seen on August 9, 2001 complaining of pain to the right shoulder blade radiating down to the right upper extremity for 10 days. Dr. Menchaca reported the results of an MRI scan and appellant's referral to Dr. Parra.

In a decision dated February 25, 2002, the Office denied appellant's claim on the grounds that he failed to submit a medical opinion explaining how his condition was causally related to the incident that occurred on June 1, 2000.

Appellant requested reconsideration. He explained how he managed the pain and discomfort in his back, neck, shoulder and elbow with sports cream and over-the-counter medications until it became so unbearable that he sought medical treatment in August 2001. To support his claim, appellant submitted a May 20, 2002 report from Dr. Parra, who related his treatment of appellant since September 7, 2001. He noted that appellant reported "an injury while working" and since then had complained of neck pain and radiculopathy.

In a decision dated July 12, 2002, the Office denied modification of its prior decision. The Office found that none of the medical evidence discussed a "history of the traumatic injury of June 1, 2000" or provided a statement of causation.

The Board finds that appellant has not met his burden of proof to establish that he sustained an injury in the performance of duty on June 1, 2000, as alleged.

An employee seeking benefits under the Federal Employees' Compensation Act¹ has the burden of proof to establish the essential elements of his claim. When an employee claims that he sustained an injury in the performance of duty, he must submit sufficient evidence to establish that he experienced a specific event, incident or exposure occurring at the time, place and in the manner alleged. He must also establish that such event, incident or exposure caused an injury.²

In this case, the Office does not dispute that appellant fell on a wet floor at work on June 1, 2000. The factual evidence is consistent and sufficient to establish that he experienced a specific event, incident or exposure occurring at the time, place and in the manner alleged. The question for determination, therefore, is whether appellant has established that such incident caused an injury.

Causal relationship is a medical issue,³ and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence that includes a physician's rationalized opinion on whether there is a causal relationship between the claimant's diagnosed condition and the established incident or factor of employment. The opinion of the physician must be based on a complete factual and medical background of the claimant,⁴ must be one of reasonable medical certainty,⁵

¹ 5 U.S.C. §§ 8101-8193.

² See *Walter D. Morehead*, 31 ECAB 188, 194 (1979) (occupational disease or illness); *Max Haber*, 19 ECAB 243, 247 (1967) (traumatic injury). See generally *John J. Carlone*, 41 ECAB 354 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

³ *Mary J. Briggs*, 37 ECAB 578 (1986).

⁴ *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

⁵ See *Morris Scanlon*, 11 ECAB 384-85 (1960).

and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the established incident or factor of employment.⁶

The Office denied appellant's claim because the record contains no such medical opinion. Appellant submitted medical records, but none of the physicians mentioned June 1, 2000, much less described what happened on that date. On May 20, 2002 Dr. Parra, appellant's orthopedic surgeon, noted "an injury while working," but this is too brief and vague a reference to demonstrate an understanding of the incident in question. The physician must provide a narrative description of what happened on June 1, 2000 so that the Office can find that he is relying on a proper history of injury. Medical conclusions based on inaccurate or incomplete histories are of little probative value and are insufficient to satisfy the second part of appellant's burden of proof.⁷ The physician must also provide an opinion on whether the employment incident described caused or contributed to appellant's diagnosed medical condition and he must support that opinion with enough medical reasoning to demonstrate that the conclusion reached is sound, logical and rational. Medical conclusions unsupported by rationale are of little probative value and are insufficient to satisfy the second part of appellant's burden of proof.⁸

Because appellant has failed to submit a well-reasoned medical opinion explaining how the incident that occurred on June 1, 2000 caused or contributed to his diagnosed medical condition, he has failed to establish the critical element of causal relationship. He has not met his burden of proof.

⁶ See *William E. Enright*, 31 ECAB 426, 430 (1980).

⁷ See *James A. Wyrick*, 31 ECAB 1805 (1980) (the physician's report was entitled to little probative value because the history was both inaccurate and incomplete). See generally *Melvina Jackson*, 38 ECAB 443, 450 (1987) (addressing factors that bear on the probative value of medical opinions).

⁸ *Ceferino L. Gonzales*, 32 ECAB 1591 (1981); *George Randolph Taylor*, 6 ECAB 968 (1954).

The July 12 and February 25, 2002 decisions of the Office of Workers' Compensation Programs are affirmed.

Dated, Washington, DC
January 3, 2003

Alec J. Koromilas
Member

Colleen Duffy Kiko
Member

Michael E. Groom
Alternate Member