

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of NANCY A. ISAAC and DEPARTMENT OF HEALTH & HUMAN  
SERVICES, ADMINISTRATION FOR CHILDREN & FAMILIES,  
Philadelphia, PA

*Docket No. 03-880; Submitted on the Record;  
Issued May 20, 2003*

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DECISION and ORDER

Before COLLEEN DUFFY KIKO, DAVID S. GERSON,  
MICHAEL E. GROOM

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

On June 25, 2000 appellant, then a 46-year-old grants technician, filed a traumatic injury claim alleging that on June 23, 2000 she experienced pain and burning in her right eye. Appellant stated that while she was pulling a file drawer, her hand slipped and a plastic label flew off hitting her in the right eye.

By letter dated August 1, 2001, the Office of Workers' Compensation Programs advised appellant that the evidence submitted was insufficient to establish her claim. The Office advised appellant about the type of medical evidence she needed to submit to establish her claim. Appellant did not respond.

By decision dated September 5, 2001, the Office found the evidence of record sufficient to establish that appellant actually experienced the claimed incident, but insufficient to establish that she sustained a medical condition caused by the incident.

In a September 27, 2001 letter, appellant requested a review of the written record by an Office representative. Appellant's request was accompanied by an authorization for medical treatment, medical bills, correspondence between appellant and Wills Eye Hospital regarding her account, an accident report concerning the June 23, 2000 incident, the Office's September 5, 2001 decision and her traumatic injury claim form. Appellant submitted a hospital report dated July 8, 2000 revealing a history that she was hit in the eye by a plastic label 10 days ago. The report also revealed a diagnosis of dry eye syndrome and presbyopia in both eyes, and superficial punctate keratopathy, which was greater in the right than in the left eye.

In a decision dated February 11, 2002, the hearing representative affirmed the Office's decision. Appellant requested reconsideration by letter dated September 6, 2002 accompanied

by an August 27, 2002 letter from Dr. Karen S. Nipper,<sup>1</sup> who noted that appellant was treated on July 8, 2000 after getting hit in the right eye with a plastic label 10 days earlier and she was diagnosed with dry eye syndrome and presbyopia in both eyes, and superficial punctate keratopathy, which was greater in the right than in the left eye. She further noted that she did not examine appellant on July 8, 2000 but that she was reviewing the medical record from that date. Dr. Nipper indicated that appellant stated her symptoms began after being hit by a plastic label at work. Appellant resubmitted the July 8, 2000 hospital report, authorization for medical treatment and a medical bill.

By decision dated November 20, 2002, the Office denied appellant's request for modification based on a merit review of the claim.

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

A person who claims benefits under the Federal Employees' Compensation Act<sup>2</sup> has the burden of establishing the essential elements of her claim, including that she sustained an injury while in the performance of duty and that she had disability as a result.<sup>3</sup> In accordance with the Federal (FECA) Procedure Manual, to determine whether an employee actually sustained an injury in the performance of his duty, the Office begins with the analysis of whether "fact of injury" has been established. Generally, "fact of injury" consists of two components, which must be considered, in conjunction with the other.

The first component to be established is that the employee actually experienced the employment incident or exposure, which is alleged to have occurred.<sup>4</sup> In order to meet her burden of proof to establish the fact that she sustained an injury in the performance of duty, an employee must submit sufficient evidence to establish that she actually experienced the employment injury or exposure at the time, place and in the manner alleged. In this case, the Office accepted that appellant experienced the claimed accident as alleged. The Board finds that the evidence of record supports this incident.

The second component is whether the employment incident caused a personal injury and generally can be established only by medical evidence.<sup>5</sup> The evidence required to establish causal relationship is rationalized medical opinion evidence, based upon complete factual and medical background, showing a causal relationship between the claimed condition and the

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<sup>1</sup> The Board notes that Dr. Nipper's professional qualifications are unknown.

<sup>2</sup> 5 U.S.C. §§ 8101-8193.

<sup>3</sup> *Charles E. Evans*, 48 ECAB 692 (1997); see 20 C.F.R. § 10.110(a).

<sup>4</sup> Federal (FECA) Procedure Manual, Part 2 -- Claims, *Fact of Injury*, Chapter 2.803(2)(a) (June 1995).

<sup>5</sup> *John J. Carlone*, 41 ECAB 354 (1989); see 5 U.S.C. § 8101(5) ("injury" defined); 20 C.F.R. §§ 10.5(a)(15), 10.5(a)(16) ("traumatic injury" and "occupational disease" defined).

identified factors.<sup>6</sup> The belief of the claimant that a condition was caused or aggravated by the employment is not sufficient to establish a causal relationship.<sup>7</sup>

The July 8, 2000 hospital report and Dr. Nipper's August 27, 2002 letter provided a history of the June 23, 2000 employment incident and a diagnosis of dry eye syndrome and presbyopia in both eyes, and superficial punctate keratopathy, which was greater in the right than in the left eye. This evidence, however, does not provide a rationalized medical opinion describing how appellant's right eye condition was caused or aggravated by the June 23, 2000 employment incident. Thus, they are insufficient to establish appellant's burden.

Although the Office advised appellant of the type of medical evidence needed to establish her claim, appellant failed to submit medical evidence responsive to the request. Consequently, appellant has not established that her eye conditions were caused by the June 23, 2000 employment incident.

The November 20, 2002 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, DC  
May 20, 2003

Colleen Duffy Kiko  
Member

David S. Gerson  
Alternate Member

Michael E. Groom  
Alternate Member

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<sup>6</sup> *Lourdes Harris*, 45 ECAB 545 (1994); *see Walter D. Morehead*, 31 ECAB 188 (1979).

<sup>7</sup> *Charles E. Evans*, *supra* note 3.