

canteens and felt it had a lot of bacteria in it because of the canteens.” Appellant did not lose time from the training exercise.

In a report dated July 7, 2004, Dr. Gary L. Carlson, a Board-certified otolaryngologist, stated that appellant received care on June 10, 2004 in a St. Louis, Missouri, hospital for a right peritonsillar abscess, but that on June 30, 2004 sustained a recurrence of pain. Penicillin and pain medication were provided at that time but his symptoms worsened. Appellant related to the doctor that on July 6, 2004 he had an episode of purulent drainage which provided relief of his symptoms. An emergency room examination that day noted bilateral tonsillitis with the right greater than the left. Dr. Carlson’s follow-up examination noted that the tonsils were hypertrophied with exudates and that he had right-sided peritonsillar tenderness. He stated that appellant sustained a recurrence of the peritonsillar abscess on the prior evening and recommended a tonsillectomy with drainage of the peritonsillar space. In a report dated July 7, 2004, a physician’s assistant whose name is illegible reported that appellant was treated that day for a recurrence of a peritonsillar abscess, adding that he had not been taking his prescribed medication over the last few days. In an attending physician’s report dated July 11, 2004, an emergency medicine specialist whose signature is illegible noted appellant’s history of sore throat with possible peritonsillar abscess. Appellant’s first treatment was noted on July 7, 2004. Dr. Carlson checked a box “no” indicating that his condition was not caused by federal employment.

In an undated report, Colonel Robert A. Coe attested to appellant’s status as in the line of duty on July 7, 2004.¹

In a letter dated July 29, 2004, the Office requested additional information from appellant, including information on how long he was in the field, did he drink out of anyone else’s canteen while in the field, has he had other similar throat conditions and, if so, did he seek medical attention on these occasions.

On August 20, 2004 appellant stated that he reported for training on June 24, 2004. He opined that his “throat condition resulted from the strenuous physical training, climatic conditions, lack of sufficient water supply and possibly contaminated canteen with the lack of a well balanced diet possibly being a contributing factor.” Appellant stated that he was in excellent shape and did not have a sore throat when he reported. He added that he had been recently diagnosed with peritonsillar abscess before he reported to training but that on June 22, 2004 he was advised that he was “cured.”

Appellant also submitted a report dated June 3, 2004 from Dr. Scott H. Hardeman, a Board-certified otolaryngologist, who stated that appellant had a recent three-week history of recurrent sore throat. He noted a fever of 102 degrees and severe right-sided tonsillar pain. Dr. Hardeman proceeded to drain appellant’s peritonsillar abscess, right side. He diagnosed acute pharyngitis and right-sided peritonsillar abscess. Dr. Hardeman prescribed medication. In a follow-up report dated June 22, 2004, he stated that appellant had no evidence of peritonsillar abscess.

¹ Appellant’s claim notes a date of injury of July 6, 2004.

By decision dated September 9, 2004, the Office denied appellant's claim on the grounds that the evidence of record failed to establish that appellant's condition was caused by his employment.

LEGAL PRECEDENT

Section 8140 of the Federal Employees' Compensation Act² has extended federal workers' compensation benefits coverage to members of the Reserve Officers' Training Corps (ROTC). Section 8140 provides as follows:

“(a) Subject to the provisions of this section, this subchapter applies to a member of, or applicant for membership in, ROTC of the Army, Navy or Air Force who, suffers an injury, disability or death incurred or an illness contracted in line of duty --

(1) while engaged in a flight or flight instruction under [C]hapter 103 of [T]itle 10; or

(2) during the period of the member's attendance at training or a practice cruise under [C]hapter 103 of [T]itle 10, United States Code, beginning when the authorized travel to the training or practice cruise begins and ending when authorized travel from the training or practice cruise ends.”³

According to the Office procedure manual Chapter 4.600, section 6(b)(3) “[t]he Secretary of the military department (or his or her designee) determines whether or not an injury was incurred in the line of duty, subject to review by [the Office].”⁴ Matters pertaining to time, fact of injury and causal relationship will be determined as in other claims under the Act.⁵

To establish fact of injury in an occupational disease claim, a claimant must submit the following: (1) medical evidence establishing the presence or existence of the condition for which compensation is claimed; (2) a factual statement identifying employment factors alleged to have caused or contributed to the condition; and (3) medical evidence establishing that the employment factors identified by the claimant were the proximate cause of the condition for which compensation is claimed or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant. The medical evidence required to establish causal relationship, generally is rationalized medical 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

² 5 U.S.C. § 8140.

³ See also *Dustin E. Marlett*, 54 ECAB ____ (Docket No. 03-466, issued June 10, 2003).

⁴ Federal (FECA) Procedure Manual, Part 4 -- Special Case Procedures, *Reserve Officers' Training Corps*, Chapter 4.600.6(b)(3) (May 1996).

⁵ *Id.* at Chapter 4.600.6(a).

appellant'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 appellant.⁶

The mere fact that a disease manifests itself during a period of employment does not raise an inference that there is a causal relationship between the two. Neither the fact that the disease became apparent during a period of employment, nor the belief of appellant that the disease was caused or aggravated by employment conditions, is sufficient to establish causal relation.⁷

ANALYSIS

In this case, Colonel Coe indicated that appellant, an Air Force ROTC cadet, was in the line of duty. However, under Office procedures noted above, the determination of fact of injury in ROTC claims will be determined as in other claims under the Act. While appellant was in the line of duty, the medical evidence is insufficient to establish fact of injury.

The medical evidence reveals a history of peritonsillar abscess three weeks prior to appellant's military training. On July 7, 2004 Dr. Carlson stated that he sustained a recurrence of a peritonsillar abscess on the prior evening and recommended a tonsillectomy with drainage of the peritonsillar space based on appellant's relating a July 6, 2004 incident of purulent drainage relief. Further, an emergency room physician stated in a report dated July 11, 2004 that appellant's condition on July 7, 2004 was not caused by his employment. None of these reports support that any activities that occurred while he was in the line of duty caused or aggravated a specific medical condition.

While appellant believed that his drinking from a canteen which may have had bacteria while in a military field training exercise caused his sore throat, the record contains no medical evidence that this activity caused or aggravated a sore throat. No physician identifies water from a canteen as a cause of any particular condition. In this regard, the Board has held that the mere fact that a condition manifests itself during a period of employment does not raise an inference that there is a causal relationship between the two.⁸ Neither the fact that the condition became apparent during a period of employment, nor the belief that the condition was caused or aggravated by employment factors or incidents are sufficient to establish causal relationship.⁹ Causal relationship must be substantiated by reasoned medical opinion evidence, which is appellant's responsibility to submit.

As there is no probative, rationalized medical evidence indicating that appellant indeed had a sore throat or that it was caused and/or aggravated by factors of his employment, he has

⁶ *Victor Woodhams*, 41 ECAB 345, 352 (1989).

⁷ *Joseph T. Gulla*, 36 ECAB 516, 519 (1985).

⁸ *See Joe T. Williams*, 44 ECAB 518, 521 (1993).

⁹ *Id.*

not met his burden of proof in establishing that he sustained a medical condition in the performance of duty causally related to factors of employment. In fact, the record is devoid of evidence finding such a condition; in fact, the medical evidence strongly supports a recurrence of appellant's peritonsillar abscess for which he had received medical treatment prior to his military training program. The Board, therefore, affirms the Office's finding that he did not sustain a compensable injury.

CONCLUSION

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

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated September 9, 2004 is affirmed.

Issued: April 5, 2005
Washington, DC

Colleen Duffy Kiko
Member

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member