United States Department of Labor
Employees' Compensation Appeals Board

R.D., Appellant	)	
and	)	**Docket No. 07-1381**
	)	**Issued: October 16, 2007**
DEPARTMENT OF THE TREASURY, INTERNAL REVENUE SERVICE, Detroit, MI, Employer	)	

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Chief Judge
DAVID S. GERSON, Judge
MICHAEL E. GROOM, Alternate Judge

JURISDICTION

On April 25, 2007 appellant filed a timely appeal from the Office of Workers' Compensation Programs' merit decision dated January 19, 2007 denying her claim for compensation. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

ISSUE

The issue is whether appellant has established an injury in the performance of duty on June 29, 2006.

FACTUAL HISTORY

On July 6, 2006 appellant, then a 31-year-old collection representative, filed a traumatic injury claim, Form CA-1, alleging that on June 29, 2006 she slipped and fell on a wet floor in the employing establishment cafeteria. She indicated that she was 30 weeks pregnant and the nature of the injury was pain in the right ankle and right side of abdomen.

Appellant submitted a July 7, 2006 note from Dr. Roderick Cairgle, an obstetrician/gynecologist, stating that she should start maternity leave on June 29, 2006 due to a fall at work and subsequent preterm contractions. Dr. Cairgle completed a duty status report (Form CA-17) dated July 24, 2006 with a history that appellant fell on her side in a cafeteria on June 29, 2006. The description of clinical findings was pelvic pain and contractions and the "diagnosis due to injury" was reported as threatened preterm labor.

The Office requested that appellant submit additional evidence regarding her claim. In a report dated August 18, 2006, Dr. Cairgle indicated that a cesarean delivery of twins was performed on August 7, 2006. He stated that appellant had a complication with one of the babies that required early delivery.

By decision dated September 27, 2006, the Office denied the claim for compensation. The Office accepted that an incident occurred on June 29, 2006 as alleged, but found that the medical evidence was insufficient to establish an injury in the performance of duty.

Appellant requested a review of the written record on October 24, 2006. She submitted a handwritten treatment note date June 29, 2006 from a university medical center. The signature of the physician is illegible. The note reported slip and fall on the right lateral side. The diagnoses included status post abdominal trauma and twin gestation.

In a decision dated January 19, 2007, an Office hearing representative affirmed the September 27, 2006 decision. The hearing representative found that the medical evidence did not establish a diagnosed condition causally related to the June 29, 2006 employment incident.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act[1] has the burden of establishing that he or she sustained an injury while in the performance of duty.[2] In order to determine whether an employee actually sustained an injury in the performance of duty, the Office begins with an analysis of 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. The second component is whether the employment incident caused a personal injury and generally this can be established only by medical evidence.[3]

The Office's procedures recognize that a claim may be accepted without a medical report when the condition is a minor one which can be identified on visual inspection.[4] In clear-cut traumatic injury claims, such as a fall resulting in a broken arm, a physician's affirmative statement is sufficient and no rationalized opinion on causal relationship is needed. In all other

[1] 5 U.S.C. §§ 8101-8193.

[2] *Melinda C. Epperly*, 45 ECAB 196, 198 (1993); *see also* 20 C.F.R. § 10.115.

[3] *See John J. Carlone*, 41 ECAB 354, 357 (1989).

[4] Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3(d) (June 1995).

traumatic injury claims, a rationalized medical opinion supporting causal relationship is required.[5]

Rationalized medical opinion evidence is medical evidence that includes a physician's rationalized opinion on the issue of whether there is a causal relationship between a diagnosed condition and the identified employment factor. The opinion of the physician must be based on a complete factual and medical background, must be of reasonable medical certainty and supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant. The weight of medical evidence is determined by its reliability, its probative value, its convincing quality, the care of the analysis manifested and the medical rationale expressed in support of the physician's opinion.[6]

ANALYSIS

The Office accepted the first component of fact of injury in this case. Appellant alleged that she slipped and fell while at work on June 29, 2006 and no contrary evidence was presented. The issue is whether the medical evidence is sufficient to establish a diagnosed medical condition causally related to the employment incident. This is not a case of a minor injury that can be identified on visual inspection, such as a laceration, nor is it a clear-cut injury such as a fall resulting in a broken arm. To establish appellant's claim there must be rationalized medical opinion evidence on the issue presented.

The evidence of record does not contain a rationalized medical opinion relating a right ankle injury or other condition to the accepted incident. The physician who examined appellant on June 29, 2006 did not provide a complete history of injury or medical opinion on causal relationship between a diagnosed condition and the employment incident. Dr. Cairgle also failed to provide a detailed medical report on the issue. He referred to preterm contractions in his July 7, 2006 note and a diagnosis of "threatened preterm labor" in the July 24, 2006 Form CA-17, without providing further explanation. No mention was made of any right ankle injury.

The record does not contain a medical report with an accurate history of the employment incident, a clear diagnosis and a medical opinion with supporting rationale on causal relationship between a diagnosed condition and the June 29, 2006 employment incident. In the absence of such evidence, the Board finds that appellant did not meet her burden of proof and the Office properly denied the claim.

CONCLUSION

The evidence of record is not sufficient to establish an injury in the performance of duty on June 29, 2006.

[5] *Id.*

[6] *Jennifer Atkerson,* 55 ECAB 317, 319 (2004).

ORDER

IT IS HEREBY ORDERED THAT the decisions of the Office of Workers' Compensation Programs dated January 19, 2007 and September 27, 2006 are affirmed.

Issued: October 16, 2007
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

David S. Gerson, Judge
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board