

which resulted in a minor injury with minimal treatment/medical cost or no time loss from work. Therefore, the Office had not formally considered the merits of appellant's claim. Because his medical expenses had recently exceeded the \$1,500.00 limit, it was proceeding with a formal adjudication of the claim. The Office asked appellant to submit a comprehensive medical report from a treating physician describing his symptoms and the medical reasons for his condition, and an opinion as to whether his claimed condition was causally related to his federal employment. It requested that he submit the additional evidence within 30 days.

Appellant submitted treatment slips dated April 20 and May 1, 2009 from Dr. Thomas G. Constantino, an osteopath, who recommended that appellant remain off work due to an injury. Dr. Constantino found that appellant was fully capable of operating a commercial motor vehicle in a safe manner. He advised, however, that appellant was incapable of lifting, pulling or pushing any load exceeding 25 pounds.

In a July 14, 2009 report, Dr. Constantino stated that appellant had preexisting conditions of scoliosis and bursitis of the left hip which were aggravated when the terms of his job restrictions were violated. He advised that an increased workload and the violation of the physical restrictions caused sudden, increased pain and resulted in appellant's vehicular accident. Dr. Constantino advised that appellant should be allowed to work within his previous restrictions.

By decision dated August 6, 2009, the Office denied appellant's claim, finding that he failed to establish fact of injury. It noted that an accident occurred on April 17, 2009 when he sideswiped a parked car; but the medical evidence was insufficient to establish an injury.

By letter dated August 17, 2009, appellant's attorney requested an oral hearing, which was held on November 10, 2009. He did not submit any additional medical evidence with his request.

By decision dated January 27, 2010, an Office hearing representative affirmed the August 6, 2009 decision. She accepted that appellant experienced left hip pain while pivoting his body to see while backing up his truck on April 17, 2009; however, he did not submit sufficient medical evidence to establish that he sustained an injury causally related to the April 17, 2009 work incident.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act¹ has the burden of establishing that the essential elements of his or her claim including the fact that the individual is an "employee of the United 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

¹ 5 U.S.C. §§ 8101-8193.

² *Joe D. Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.³

To determine whether a federal 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 or she 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 causal relationship is usually 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 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.

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.⁶

An award of compensation may not be based on surmise, conjecture or speculation. Neither the fact that appellant’s condition became apparent during a period of employment nor the belief that his condition was caused, precipitated or aggravated by his employment is sufficient to establish causal relationship.⁷ Causal relationship must be established by rationalized medical opinion evidence and appellant failed to submit such evidence.

ANALYSIS

The Office accepted that appellant experienced left hip pain when he pivoted his body while backing up his truck on April 17, 2009. The question of whether an employment incident caused a personal injury can only be established by probative medical evidence.⁸ Appellant has not submitted sufficient rationalized, medical evidence to establish that the April 17, 2009 employment incident caused his left hip injury.

Appellant submitted reports from Dr. Constantino, who took him off work as of April 20, 2009 and released him to return with restrictions on May 1, 2009. In a July 14, 2009 note, Dr. Constantino stated that appellant had aggravated preexisting conditions of scoliosis and

³ *Victor J. Woodhams*, 41 ECAB 345 (1989).

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

⁷ *Id.*

⁸ *Carlone*, *supra* note 4.

bursitis of the left hip because the terms of his job restrictions had been violated. He advised that an increased workload and the violation of the work restrictions caused sudden, increased pain and resulted in appellant's April 17, 2009 vehicular accident. Dr. Constantino indicated that appellant could work as long as he stayed within his previously issued restrictions.

The weight of medical opinion is determined by the opportunity for and thoroughness of examination, the accuracy and completeness of physician's knowledge of the facts of the case, the medical history provided, the care of analysis manifested and the medical rationale expressed in support of stated conclusions.⁹ Although Dr. Constantino presented a diagnosis of appellant's conditions, his one paragraph note did not adequately address how this condition was causally related to the April 17, 2009 work incident. The medical reports of record did not explain how medically appellant would have sustained an aggravation of his left hip bursitis and scoliosis conditions while backing up his vehicle on April 17, 2009. Dr. Constantino's opinion on causal relationship is of limited probative value in that he did not provide adequate medical rationale in support of his conclusions.¹⁰ He did not describe appellant's accident in any detail or explain how pivoting his body would have been competent to cause or aggravate the left hip bursitis and scoliosis conditions. Dr. Constantino opinion is of limited probative value for the further reason that it is generalized in nature. He stated that appellant's condition was causally related to the April 17, 2009 work incident. There is no discussion of appellant's preexisting history of treatment or explanation as to how driving a truck did not conform to his work restrictions. Therefore, he failed to provide a medical report from a physician that explains how the work incident of April 17, 2009 caused or contributed to the claimed left hip injury.

The Office advised appellant of the evidence required to establish his claim; however, appellant did not provide a medical opinion which describes or explains the medical process by which appellant's pivoting his position in the truck would be competent to have caused the claimed injury. It properly denied appellant's claim for compensation.

CONCLUSION

The Board finds that appellant has failed to establish that he sustained a left hip injury in the performance of duty on April 17, 2009.

⁹ See *Anna C. Leanza*, 48 ECAB 115 (1996).

¹⁰ *William C. Thomas*, 45 ECAB 591 (1994).

ORDER

IT IS HEREBY ORDERED THAT the January 27, 2010 and August 6, 2009 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: December 13, 2010
Washington, DC

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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

James A. Haynes, Alternate Judge
Employees' Compensation Appeals Board