United States Department of Labor
Employees' Compensation Appeals Board

S.E., Appellant	)	
and	)	**Docket No. 10-1462**
	)	**Issued: February 9, 2011**
DEPARTMENT OF VETERANS AFFAIRS, CHARLIE NORWOOD VETERANS ADMINISTRATION MEDICAL CENTER, Augusta, GA, 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
COLLEEN DUFFY KIKO, Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On May 5, 2010 appellant filed a timely appeal from an April 23, 2010 merit decision of the Office of Workers' Compensation Programs. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of the case.

ISSUE

The issue is whether appellant has met her burden of proof to establish that she sustained a traumatic injury in the performance of duty on February 26, 2010.

FACTUAL HISTORY

On March 4, 2010 appellant, then a 55-year-old nurse, filed a traumatic injury claim alleging that she sustained a right shoulder strain on February 26, 2010 due to the repetitive use of telephone and call light receivers. She did not stop working.

Appellant subsequently provided a February 23, 2010 work release from Dr. Alex D. Collins, an osteopath specializing in orthopedic surgery. He noted that appellant underwent shoulder surgery and was allowed to return to work on February 24, 2010 with lifting restrictions. A physician's assistant's February 24, 2010 note restated that appellant was on limited duty. In a March 3, 2010 duty status report, Dr. Collins diagnosed right shoulder impingement resulting from "repetitive work" using the right shoulder on February 26, 2010.

The employing establishment controverted appellant's claim, in a March 12, 2010 letter, asserting that her shoulder injury was unrelated to her employment and her medical evidence did not demonstrate a causal connection between the injury and the February 26, 2010 incident. It argued that she filed the claim solely to avoid absence-without-approved-leave status, following a nonwork-related shoulder surgery and attached a March 2, 2010 memorandum which notified her that her light-duty assignment expired March 12, 2010. The employing establishment also included March 3 and 10, 2010 statements from appellant's coworker and supervisor, respectively, that appellant held a door open with her right arm with no difficulty on March 1, 2010 and that other employees were also responsible for answering telephone calls and patient call lights.[1]

In a March 17, 2010 letter, the Office informed appellant that additional evidence was needed to establish her claim. It gave her 30 days to submit medical treatment reports from a physician, clinic or hospital. In particular, the Office emphasized that the physician's report must include dates of examination and treatment, history of injury, a detailed description of findings, results of x-rays and laboratory tests, diagnosis and clinical course of treatment followed, and the physician's opinion supported by a medical explanation pertaining to how the reported work incident caused the injury.

In a March 24, 2010 statement, appellant maintained that she sustained a right shoulder strain attributable to continuous lifting of telephone and call light receivers during her shift on February 26, 2010. She added that her recent surgery increased her susceptibility to the injury.

An April 8, 2010 note from Dr. Collins stated that appellant was allowed to return to regular duty starting April 12, 2010.

By decision dated April 23, 2010, the Office denied appellant's claim, finding that the medical evidence was insufficient to demonstrate that her diagnosed condition was caused by the February 26, 2010 incident.

LEGAL PRECEDENT

An employee seeking compensation under the Federal Employees' Compensation Act[2] has the burden of establishing the essential elements of her claim by the weight of reliable, probative and substantial evidence,[3] including that she is an "employee" within the meaning of

[1] The employment establishment reiterated its contentions in addendums dated March 29 and April 13, 2010.

[2] 5 U.S.C. §§ 8101-8193.

[3] *J.P.*, 59 ECAB 178 (2007); *Joseph M. Whelan*, 20 ECAB 55, 57 (1968).

the Act and that she filed her claim within the applicable time limitation.[4] The employee must also establish that she sustained an injury in the performance of duty as alleged and that her disability for work, if any, was causally related to the employment injury.[5]

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it first must be determined whether fact of injury has been established. There are two components involved in establishing fact of injury. First, the employee must submit sufficient evidence to establish that she actually experienced the employment incident at the time, place and in the manner alleged. Second, the employee must submit evidence, in the form of medical evidence, to establish that the employment incident caused a personal injury.[6]

Causal relationship is a medical issue and the evidence generally required to establish causal relationship is rationalized medical opinion evidence. Rationalized medical opinion evidence is evidence which includes a physician's 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, 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.[7]

ANALYSIS

The evidence supports that appellant answered telephone calls and patient call lights during her February 26, 2010 shift. However, she has not submitted sufficient medical evidence establishing that these work activities on February 26, 2010 caused or aggravated a right shoulder strain.

The Office informed appellant in a March 17, 2010 letter about the evidence needed to establish her claim. Appellant provided several medical records but these are insufficient to establish her claim. Dr. Collins' March 2, 2010 duty status report diagnosed appellant with right shoulder impingement due to repetitive work on February 26, 2010. However, he did not provide any medical rationale to explain how any particular work activity on this date caused or aggravated the injury. A medical opinion not fortified by medical rationale is of little probative value.[8] In addition, Dr. Collins did not address the details of the February 26, 2010 incident as described by appellant, namely repetitive lifting of telephone and call light receivers.[9] His February 23 and April 8, 2010 work releases are also of limited probative value as they offered

[4] *R.C.*, 59 ECAB 427 (2008).

[5] *Id.*; *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

[6] *T.H.*, 59 ECAB 388 (2008).

[7] *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

[8] *See George Randolph Taylor*, 6 ECAB 986, 988 (1954).

[9] *See John W. Montoya*, 54 ECAB 306, 309 (2003) (a physician's opinion must discuss whether the employment incident described by the claimant caused or contributed to diagnosed medical condition).

no opinion regarding the cause of appellant's injury.[10] Appellant did not provide any medical evidence in which a physician explained the reasons why answering telephone calls and patient call lights on February 26, 2010 caused or aggravated a diagnosed medical condition.

Appellant also submitted a February 24, 2010 note from a physician's assistant. However, this note is entitled to no probative medical weight because a physician's assistant is not a "physician" as defined by the Act.[11]

For these reasons, appellant has not met her burden of proof in establishing her claim.

CONCLUSION

The Board finds that appellant did not establish that she sustained a traumatic injury in the performance of duty on February 26, 2010.

ORDER

IT IS HEREBY ORDERED THAT the April 23, 2010 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: February 9, 2011
Washington, DC

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

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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

[10] *See J.F.*, 61 ECAB ___ (Docket No. 09-1061, issued November 17, 2009) (medical evidence that does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship).

[11] 5 U.S.C. § 8101(2); *Allen C. Hundley*, 53 ECAB 551, 554 (2002).