

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of MICHAEL KOPP and DEPARTMENT OF COMMERCE,
BUREAU OF THE CENSUS, Rochester, MN

*Docket No. 00-2248; Submitted on the Record;
Issued December 26, 2000*

DECISION and ORDER

Before MICHAEL J. WALSH, MICHAEL E. GROOM,
VALERIE D. EVANS-HARRELL

The issue is whether appellant has established that he sustained an injury in the performance of duty on April 6, 2000.

On April 6, 2000 appellant, a 39-year-old field operations supervisor, filed a notice of traumatic injury and claim for continuation of pay/compensation (Form CA-1), alleging that, on April 6, 2000, at 7:55 a.m., he was in an automobile collision and sustained a concussion, bruising to his back (lower spine), bruising to his left arm and shoulder, bruising to his left leg and chest and internal muscle bruising. Appellant's supervisor submitted a statement indicating that appellant was on "Bureau time on his way to training" at the time of the motor vehicle collision.

Appellant submitted a motor vehicle accident report and an accident/illness report, both dated April 13, 2000.

On May 5, 2000 the Office of Workers' Compensation Programs wrote to appellant stating that the information submitted with the claim was insufficient to establish that he sustained an injury on April 6, 2000 and requested that he submit medical records from the treating physician. It also informed him that the case would be held open for 30 days to afford appellant an opportunity to submit the medical evidence.

Appellant did not respond within the time allotted.

By decision dated June 14, 2000, the Office denied appellant's claim for compensation as the evidence was not sufficient to meet the guidelines for establishing that appellant sustained an injury due to the accepted event, since medical evidence was never provided.

The Board finds that appellant has not established that he sustained an injury in the performance of duty on April 6, 2000.

An employee seeking benefits under the Federal Employees' Compensation Act¹ has the burden of establishing the essential elements of his or her claim,² including the fact that the individual is an "employee of the United States" within the meaning of the Act,³ that the claim was timely filed within the applicable time limitation period of the Act,⁴ 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.⁵ These are essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁶

In the present case, there is no dispute that appellant was an employee of the United States, that the claim was filed in a timely manner and that the incident occurred as alleged. The issue is whether appellant has established that he sustained an injury in the performance of duty. To determine whether an 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.⁷ 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.⁸ An employee may establish that an injury occurred in the performance of duty as alleged but fail to establish that his or her disability and/or a specific condition for which compensation is claimed are causally related to the injury.⁹

The medical evidence required to establish a causal relationship, generally, is rationalized medical evidence. Rationalized medical evidence is medical evidence which includes a physician's rationalized medical 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

¹ 5 U.S.C. §§ 8101-8193.

² *Daniel R. Hickman*, 34 ECAB 1220 (1983); 20 C.F.R. § 10.110.

³ *James A. Lynch*, 32 ECAB 216 (1980); 5 U.S.C. § 8101(1).

⁴ 5 U.S.C. § 8122.

⁵ *Melinda C. Epperly*, 45 ECAB 196 (1993).

⁶ *Delores C. Ellyett*, 41 ECAB 992 (1990).

⁷ *John J. Carlone*, 41 ECAB 354 (1989).

⁸ *Id.*

⁹ As used in the Act, the term "disability" means incapacity because of an injury in employment to earn wages the employee was receiving at the time of the injury, *i.e.*, a physical impairment resulting in loss of wage-earning capacity. *Frazier V. Nichol*, 37 ECAB 528 (1986).

rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.¹⁰

The evidence of record does establish that appellant sustained the employment-related motor vehicle collision as alleged. At the time of the Office's June 14, 2000 decision, appellant had not submitted any medical evidence to substantiate that he sustained an injury due to the accepted incident.

As appellant did not submit the medical evidence as required under the Act, he has not established that he sustained an injury in the performance of duty on April 6, 2000.¹¹

The decision of the Office of Workers' Compensation Programs dated June 14, 2000 is hereby affirmed.

Dated, Washington, DC
December 26, 2000

Michael J. Walsh
Chairman

Michael E. Groom
Alternate Member

Valerie D. Evans-Harrell
Alternate Member

¹⁰ See generally, *Duane B. Harris*, 49 ECAB 170 (1997).

¹¹ The Board notes that appellant did submit medical evidence with his request for review by the Board. The Board's review of a case is limited to evidence in the case record which was before the Office at the time of its final decision. 20 C.F.R. § 501.2.