

In support of her claim, appellant submitted a July 30, 2008 work restriction slip from Dr. Reginald McKinney, an ophthalmologist, noting that she could return to work on July 31, 2008. She also submitted a July 22, 2008 medication reconciliation report with an illegible signature that listed the medications prescribed to her and also submitted an undated and incomplete workers' compensation injury treatment form from Memorial Healthcare System.

On November 10, 2008 the Office advised appellant of the factual and medical evidence necessary to establish her claim and allowed her 30 days to submit additional evidence. In particular, it requested a physician's report with a diagnosis and an opinion regarding whether her diagnosed conditions were caused or aggravated by the alleged work injury. Appellant did not submit any additional evidence to the record.

In a December 18, 2008 decision, the Office denied appellant's claim. It found that, although the incident occurred as alleged, the evidence did not establish that a medical condition was related to the established work-related event.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act¹ has the burden of establishing the essential elements of 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 filed within the applicable time limitation; that an injury was sustained while 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. These are the essential elements of each and every compensation claim regardless of whether the claim is predicated on a traumatic injury or an occupational disease.²

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. 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.³

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on whether there is a causal relationship between the employee's diagnosed condition and the compensable employment factors. The opinion of the physician must be based on a complete factual and medical background of the employee, must be one of reasonable medical certainty

¹ 5 U.S.C. §§ 8101-8193.

² *S.P.*, 59 ECAB ____ (Docket No. 07-1584, issued November 15, 2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

³ *Id.*

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 employee.⁴

ANALYSIS

The record reflects that on July 19, 2008 appellant was struck in the right eye by a rubber band that had snapped from a bundle of files she was carrying while in the performance of duty. However, the medical evidence does not establish that being struck in the eye by a rubber band caused or aggravated a diagnosed right eye condition.

A July 30, 2008 work restriction slip from Dr. McKinney noted that appellant could return to work on July 31, 2008. However, he did not provide a diagnosis or address the cause of her condition. The Board has held that 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.⁵ Appellant also submitted a July 22, 2008 medication reconciliation report with an illegible signature that listed the medications prescribed to her. As the report's signature could not be identified, the report is of no probative value.⁶ Moreover, the report failed to identify a medical condition and did not address the issue of causal relationship. Appellant did not submit any other evidence from a physician which addressed causal relationship between the rubber band snapping at work and a particular right eye injury or condition. As noted, causal relationship is a medical issue. To meet her burden of proof, appellant must submit medical evidence from a physician addressing how the rubber band incident caused or aggravated a specific right eye condition.

The Office notified appellant of the type of evidence needed to establish her claim on November 10, 2008. Specifically, it advised that appellant needed to submit a physician's medical explanation of how the alleged work incident contributed to her right eye condition. However, appellant did not submit a reasoned medical opinion explaining how the work incident caused or aggravated a diagnosed medical condition. Consequently, the Board finds that she did not meet her burden of proof in establishing her claim.

On appeal, appellant asserts that she received the Office's letter requesting additional evidence when she was on approved holiday leave. She also asserts that an e-mail regarding the request for evidence was sent to her work e-mail address while she was on leave and therefore she was unable to respond. However, the Board notes that the Office's request for additional evidence was sent to appellant's address of record. As noted, it is appellant's burden of proof to

⁴ *I.J.*, 59 ECAB ___ (Docket No. 07-2362, issued March 11, 2008); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

⁵ *S.E.*, 60 ECAB ___ (Docket No. 08-2214, issued May 6, 2009).

⁶ *See D.D.*, 57 ECAB 734 (medical reports lacking proper identification do not constitute probative medical evidence).

establish the essential elements of her claim by submitting sufficient rationalized medical evidence.⁷

CONCLUSION

The Board finds that appellant did not meet her burden of proof to establish that she sustained a traumatic injury on July 19, 2008 in the performance of duty.

ORDER

IT IS HEREBY ORDERED THAT the Office of Workers' Compensation Programs' decision dated December 18, 2008 is affirmed.

Issued: December 4, 2009
Washington, DC

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

David S. Gerson, Judge
Employees' Compensation Appeals Board

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

⁷ Appellant submitted new evidence on appeal. However, the Board may not consider new evidence on appeal as it may only review evidence that was in the record at the time the Office issued its final decision. 20 C.F.R. § 501.2(c). This decision however does not preclude appellant from submitting such evidence to the Office as part of a reconsideration request.