U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of MARGARET F. SARTOR and DEPARTMENT OF THE AIR FORCE, 81 MSS/DPCE, KEESLER AIR FORCE BASE, MS

Docket No. 00-1927; Submitted on the Record;
Issued April 17, 2001

DECISION and ORDER

Before DAVID S. GERSON, BRADLEY T. KNOTT,
PRISCILLA ANNE SCHWAB

The issue is whether appellant sustained an injury while in the performance of duty on February 23, 1999.

The Board has duly reviewed the case record and finds that appellant failed to meet her burden of proof to establish that she sustained a work-related injury on February 23, 1999.

In order to determine whether an employee actually sustained an injury in the performance of duty, the Office of Workers' Compensation Programs 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 can be established only by medical evidence.[1]

On February 25, 1999 appellant, then a 44-year-old civil engineer, filed a notice of traumatic injury, alleging that on February 23, 1999, while at work, she encountered an odor which caused her to experience an extreme sinus reaction. Appellant stopped work for the day, returned to work for a short time the following morning, but then stopped work again. The claim form contains a statement from Marilyn W. Sebring, that she, appellant and several other employees began to smell an odor, like mold or mildew, in the area of the office and hallway.

In a March 10, 1999 report, Dr. Robert L. Cobb, a Board-certified internist and treating physician, stated that he had examined appellant on February 24, 1999, when she said she had an "allergic reaction to something at work." Dr. Cobb indicated by check mark that appellant's condition was caused or aggravated by her employment. He released appellant to return to work March 1, 1999, but added that she could not be exposed to allergens in the workplace.

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[1] *Christine S. Herbert*, 49 ECAB 616 (1998).

By letter dated April 2, 1999, the Office informed appellant that the evidence submitted in support of her claim was insufficient to establish entitlement and requested that she submit additional factual information, including the exact nature of the substance she was allegedly exposed to and a comprehensive medical report from her treating physician, explaining the nature of appellant's condition and its causal relationship, if any, to her employment duties. By separate letter dated April 2, 1999, the Office also requested additional factual information from the employing establishment.

The employing establishment controverted appellant's claim on the grounds that she had long-standing preexisting allergies and had not identified the odor to which she was exposed. The employing establishment noted that while no painting, maintenance, or entomology operations had been conducted recently, a mildew smell was detected in the stairwell leading to the area where appellant's reaction occurred and a similar musty odor was present in the area itself. In a follow-up memorandum dated March 18, 1999, the employing establishment stated that a complete inspection of the air duct system had been completed and no mold was found in the system. In addition, no traces of mold or mildew were found during a search of the roof and attic areas. The employing establishment acknowledged that there had been a roof leak in the past and that another roof leak had been located and repaired as a result of the inspection.

In a decision dated May 11, 1999, the Office denied appellant's claim on the grounds that appellant had not met her burden of proof to establish that she had sustained an employment-related injury.

It is undisputed that on February 23, 1999, while at work, appellant experienced a severe sinus reaction, stopped work and sought medical attention the following day. The record also contains evidence that a mildew smell was detected near the location where appellant worked, although the source of this smell was not located. The question, therefore, becomes whether something at the workplace caused or aggravated the conditions for which appellant seeks compensation.

Causal relationship is a medical issue and the medical evidence required to establish causal relationship, generally, is rationalized medical opinion evidence.[2] Rationalized medical opinion evidence is medical evidence that includes a physician's rationalized opinion on whether there is a causal relationship between the claimant's diagnosed condition and the established incident or factor of employment.[3] The opinion of the physician must be based on a complete factual and medical background of the claimant,[4] must be one of reasonable medical certainty,[5] and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the established incidents or factors of employment.[6]

[2] *Elizabeth Stanislav*, 49 ECAB 540 (1998); *Dennis M. Mascarenas*, 49 ECAB 215 (1997); *Duane B. Harris*, 49 ECAB 170 (1997).

[3] *Id*.

[4] *Id.*

[5] *Id.*

[6] *Id.*

The medical evidence of record consists, in its entirety, of the March 10, 1999 attending physician's report from Dr. Cobb and a subsequent April 29, 1999 letter he stated that appellant had presented to him on February 24, 1999 stating that she had an allergic reaction to something at work and complaining of a swollen right eye, a right-sided headache, congestion and wheezing. Dr. Cobb stated that he had treated appellant with injectable steroids and that her condition cleared and she returned to work. However, appellant again presented on March 1, 1999, stating that she had experienced the same reaction immediately upon entering the workplace. She was again treated and her condition cleared. Appellant returned to work on March 22, 1999, had another reaction and went to the emergency room.

Dr. Cobb stated that appellant also reported that since her last office visit, she had been seen by another physician, but that no new treatment was initiated. Appellant reported to him that after the last episode, she had been told to leave work and not to return until an investigation was completed and whatever offending agent existed was found and corrected. Dr. Cobb stated that as of appellant's last visit to him on April 12, 1999, she was still having problems with swelling and irritation of her right eye. He concluded:

> "Regarding the causality of anything at work, I have no proof of this. This is purely on the say[-]so of the patient. As far as I am aware, she was told that there was something there causing this and that it was being investigated and would be corrected. It should, also, be pointed out that this lady has had chronic upper respiratory allergy symptoms for a number of years and has had right [sided] and right periorbital headaches in the past, also, which has been evaluated and treated by ENT and opthalmology…. At this point, I have no additional information I can give on this case…."

An award of compensation may not be based on surmise, conjecture, speculation, or appellant's belief of causal relationship.[7] The Board has held that the mere fact that a disease or condition manifests itself during a period of employment does not raise an inference of causal relationship between the condition and the employment.[8] Neither the fact that the condition became apparent during a period of employment nor appellant's belief that employment caused or aggravated her condition is sufficient to establish causal relationship.[9]

While the medical opinion of a physician supporting causal relationship does not have to reduce the cause or etiology of a disease or condition to an absolute certainty, neither can such opinion be speculative or equivocal.[10] The opinion of a physician supporting causal relationship must be one of reasonable medical certainty that the condition for which compensation is claimed is causally related to federal employment and such relationship must be supported with

[7] *Norman E. Underwood*, 43 ECAB 719 (1992).

[8] *Id.*

[9] *Id.*

[10] *Ern Reynolds*, 45 ECAB 690 (1994).

affirmative evidence, explained by medical rationale and be based upon a complete and accurate medical and factual background of the claimant.[11]

In each of his reports, Dr. Campbell failed to provide a rationalized opinion supporting a causal relationship between appellant's employment and her allergic sinus reaction. Initially, Dr. Cobb indicated by check mark that appellant's reaction was related to her employment. However, a medical report which merely checks a box on a form that a condition is employment related is of diminished probative value without further detail and explanation.[12] While he provided a more detailed accounting of appellant's condition and treatment in his April 29, 1999 letter, Dr. Cobb did not offer a clear, unequivocal medical opinion on the cause of appellant's condition. Rather, he stated that he could only rely on appellant's accounting of events.

By letter dated April 2, 1999 and in the March 11, 1999 decision, the Office advised appellant of the type of evidence needed to establish her claim, but appellant submitted neither factual evidence regarding the nature of the alleged offending substance nor medical evidence drawing a clear connection between the identified substance and appellant's adverse reaction. Therefore, the Board finds that the evidence of record is insufficient to meet appellant's burden of proof.

The March 11, 1999 decision of the Office of Workers' Compensation Programs is hereby affirmed.[13]

Dated, Washington, DC
April 17, 2001

David S. Gerson
Member

Bradley T. Knott
Alternate Member

Priscilla Anne Schwab
Alternate Member

[11] *Connie Johns*, 44 ECAB 560 (1993).

[12] *Alberta S. Williamson*, 47 ECAB 569 (1996); *Lester Covington*, 47 ECAB 539 (1996).

[13] On appeal, appellant submitted new medical and factual evidence. The Board cannot consider this evidence on appeal, however, as it was not before the Office at the time of the final decision; *see Dennis E. Maddy*, 47 ECAB 259 (1995); 20 C.F.R. § 501.2(c).