

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of CINDY HAECKE and U.S. POSTAL SERVICE,
POST OFFICE, Omaha, NE

*Docket No. 01-112; Submitted on the Record;
Issued July 20, 2001*

DECISION and ORDER

Before DAVID S. GERSON, MICHAEL E. GROOM,
BRADLEY T. KNOTT

The issues are: (1) whether appellant has established that she sustained post-concussion syndrome as a result of an employment injury on May 9, 2000; and (2) whether she has established that her preexisting cervical dystonia was aggravated as a result of the employment injury.

On May 9, 2000 appellant, then a 46-year-old casual clerk, filed a notice of traumatic injury claiming that she sustained an injury to her right foot and a laceration to her forehead when she was trapped between an all-purpose container and a cement column at work. Appellant stopped work on that same day. In support of her claim appellant submitted various emergency room reports diagnosing her with "contusion to right foot" and treating her for "headache, laceration and dizziness." Appellant also underwent a computerized tomography (CT) scan on May 15, 2000, which was normal.

On May 22, 2000 Dr. James Crew, a Board-certified family practitioner, diagnosed appellant with "post-concussion syndrome" and checked "yes" to the question of whether the condition was caused by an employment activity. He also stated that appellant is "at rest at home and hopefully will [return to work] soon."

In a duty status report dated June 5, 2000, Dr. John Goldner, a Board-certified psychiatrist and neurologist, diagnosed appellant with "post-concussion syndrome" and "cervical dystonia." He stated in a June 6, 2000 report that appellant suffered from "longstanding cervical dystonia" which had been aggravated by her recent injury.

In a letter received on June 9, 2000, Dr. Goldner stated that appellant is off work because of her post-concussion syndrome. He further indicated: "[appellant's] symptoms related to her post-concussion syndrome include headaches, some problems with concentration and an aggravation of her preexisting cervical dystonia."

On July 21, 2000 appellant filed a claim for compensation for the period of June 24 through July 21, 2000. She also submitted a July 24, 2000 attending physician's report from Dr. Goldner indicating "post-concussion syndrome with headaches and problems concentrating" and "long-standing cervical dystonia aggravated by work injury."

On July 28, 2000 the employing establishment submitted a letter dated July 26, 2000, indicating that appellant was only a casual employee and her assignment with the employing establishment ended on June 28, 2000.

By letter dated August 9, 2000, the Office of Workers' Compensation Programs requested that appellant submit all medical information pertaining to her preexisting condition of cervical dystonia.

Appellant submitted progress notes from Dr. Crew dated August 18, 2000, duplicative medical evidence already contained in the record and a copy of the Office's August 9, 2000 letter, but did not submit any medical evidence pertaining to her preexisting condition.

By decision dated September 12, 2000, the Office denied appellant's compensation benefits since appellant had not established that her post-concussion syndrome and aggravation of cervical dystonia were caused by the May 9, 2000 work injury.

By decision dated September 12, 2000, the Office accepted appellant's claim for "contusion right foot" and "laceration of the forehead." The Office authorized continuation of pay for May 10 through 11, 2000, since during that time appellant suffered from a contusion of the right foot and laceration to the forehead.

The Board has reviewed the entire case record and finds that appellant has not established that she sustained post-concussion syndrome as a result of her employment injury on May 9, 2000.

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.¹ 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.² 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.³

¹ *John J. Carlone*, 41 ECAB 354 (1989).

² *Id.* For a definition of the term "injury," see 20 C.F.R. § 10.5(a)(14).

³ As used in the Federal Employees' Compensation 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).

The medical evidence required to establish a causal relationship is rationalized medical opinion 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.⁴

In this case, both Drs. Crew and Goldner diagnosed appellant with post-concussion syndrome but neither physician provided a well-rationalized medical opinion describing how appellant's condition was caused by her work injury. Dr. Crew, in his May 22, 2000 attending physician's report, diagnosed appellant with post-concussion syndrome and checked "yes" to whether her condition was caused or aggravated by an employment activity. The Board has held, however, that when a physician's opinion on causal relationship consists only of checking "yes" to a form question, that opinion has little probative value and is insufficient to establish causal relationship.⁵ Appellant's burden includes the necessity of furnishing an affirmative opinion from a physician who supports his conclusion with sound medical reasoning. As Dr. Crew did not do more than check "yes" to a form question, his opinion on causal relationship is of little probative value and is insufficient to discharge appellant's burden of proof. Also, Dr. Golder stated several times that appellant suffers from post-concussion syndrome, but did not provide a rationalized medical opinion as to the cause of her condition. None of the medical evidence of record explains the medical basis for the diagnosis of post-concussion syndrome given that the CT scan was evaluated as normal. Further, while a history of headaches was noted, he also noted that appellant had a problem with alcohol in the past and was currently consuming four mixed drinks per day. Additionally, while he noted on August 18, 2000 that appellant had stopped taking zoloft "more than 10 days" ago and that her headaches had returned, he offered no medical opinion as to whether appellant's irregular use of medication caused appellant's headaches.

The Board also finds that appellant has not established that her preexisting cervical dystonia was aggravated as a result of her employment injury.

In his June 6, 2000 report, Dr. Goldner opined that appellant's long-standing cervical dystonia has been aggravated by her work injury, yet does not provide a rationalized medical opinion explaining the nature of the relationship between appellant's condition and her employment. He also stated in his June 8, 2000 report that appellant's symptoms related to her post-concussion syndrome include an aggravation of her preexisting cervical dystonia. Again, Dr. Golder does not provide a reasoned explanation and a rationalized medical opinion describing how appellant's preexisting condition was aggravated by her May 9, 2000

⁴ *Delores C. Ellyett*, 41 ECAB 992, 994 (1990); *Ruthie M. Evans*, 41 ECAB 416, 423-25 (1990).

⁵ *Ruth S. Johnson*, 46 ECAB 237 (1994).

employment injury. The Board has found that a conclusory statement without supporting rationale is of little probative value⁶ and is insufficient to discharge appellant's burden of proof.

The September 12, 2000 decisions of the Office of Workers' Compensation Programs are hereby affirmed.

Dated, Washington, DC
July 20, 2001

David S. Gerson
Member

Michael E. Groom
Alternate Member

Bradley T. Knott
Alternate Member

⁶ *Marilyn D. Polk*, 44 ECAB 673 (1993).