

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of MONICA M. WATSON and DEPARTMENT OF VETERANS AFFAIRS,
VETERANS ADMINISTRATION MEDICAL CENTER, Miami, FL

*Docket No. 02-231; Submitted on the Record;
Issued May 16, 2002*

DECISION and ORDER

Before MICHAEL J. WALSH, COLLEEN DUFFY KIKO,
A. PETER KANJORSKI

The issue is whether appellant has met her burden of proof in establishing that she sustained a shoulder injury as a result of her March 13, 2001 employment incident.

Appellant, a 49-year-old nursing assistant, filed a notice of traumatic injury on April 24, 2001 alleging that on March 13, 2001 she fell in the performance of duty injuring her right elbow, back and bottom. The Office of Workers' Compensation Programs requested supporting factual and medical evidence in a letter dated May 7, 2001. By decision dated July 17, 2001, the Office denied appellant's claim finding that she failed to submit sufficient medical evidence to meet her burden of proof.

The Board finds that appellant has failed to meet her burden of proof in establishing that she sustained a shoulder injury as a result of her March 13, 2001 employment incident.

In order to determine whether an employee actually sustained an injury in the performance of duty, the Office 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.¹ The second component is whether the employment incident caused a personal injury and generally can be established only by medical evidence. To establish a causal relationship between the condition, as well as any attendant disability, claimed and the employment event or incident, the employee must submit rationalized medical opinion evidence, based on a complete factual and medical background, supporting such a causal relationship.² 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

¹ *Elaine Pendleton*, 40 ECAB 1143 (1989).

² *See* 20 C.F.R. § 10.110(a); *John M. Tornello*, 35 ECAB 234 (1983).

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. The weight of medical evidence is determined by its reliability, its probative value, its convincing quality, the care of analysis manifested and the medical rationale expressed in support of the physician's opinion.³

In this case, the Office accepted that appellant sustained the employment-related fall on March 13, 2001. However, the Office found that appellant had not submitted sufficient medical evidence to establish a causal relationship between her shoulder condition and the accepted fall.

In support of her claim, appellant submitted several notes and reports from Dr. James J. Jennings, a Board-certified family practitioner, who on April 18, 2001 noted that appellant experienced pain in her right shoulder. Dr. Jennings did not provide a history of injury nor an opinion on the causal relationship between appellant's condition and her employment. For this reason, his reports are insufficient to meet appellant's burden of proof.

Appellant submitted a report dated April 24, 2001 from Dr. Joseph B. Zagorski, a Board-certified orthopedic surgeon, who noted appellant's history of injury, performed a physical examination and diagnosed right shoulder impingement. However, Dr. Zagorski did not provide an opinion on the causal relationship between appellant's shoulder condition and the fall on March 13, 2001 which impacted appellant's right elbow, back and buttocks. As Dr. Zagorski's report lacks the necessary medical opinion evidence, it is insufficient to meet appellant's burden of proof.

Appellant has not submitted any medical evidence providing a history of injury and medical opinion evidence concluding that her right shoulder condition is a result of the accepted employment incident. For this reason, the Office properly denied her claim.

³ *James Mack*, 43 ECAB 321 (1991).

The July 17, 2001 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC
May 16, 2002

Michael J. Walsh
Chairman

Colleen Duffy Kiko
Member

A. Peter Kanjorski
Alternate Member