U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of TED L. MIZUTOWICZ and SMALL BUSINESS ADMINISTRATION, DISASTER RELIEF OFFICE, Houston, TX

Docket No. 02-2374; Submitted on the Record;
Issued January 21, 2003

DECISION and ORDER

Before DAVID S. GERSON, MICHAEL E. GROOM,
A. PETER KANJORSKI

The issue is whether appellant has established that he sustained an injury in the performance of duty on March 17, 2000.

Appellant, a 57-year-old temporary construction analyst, was involved in an automobile accident on June 24, 2001. He filed a claim for a traumatic injury on July 31, 2001, alleging that he sustained an injury in the performance of duty on June 24, 2001.[1]

The employing establishment issued a Form CA-16, authorization for examination and/or treatment, dated June 24, 2001, authorizing up to 60 days of medical treatment as deemed necessary from the date of injury.

By letter dated August 8, 2001, the Office of Workers' Compensation Programs advised appellant that it required additional factual and medical evidence to determine whether he was eligible for compensation benefits. The Office asked appellant to submit a comprehensive medical report from his treating physician describing his symptoms and the medical reasons for his condition and an opinion as to whether his claimed condition was causally related to his federal employment. He did not submit any evidence.

By decision dated September 14, 2001, the Office denied appellant's claim, finding that he failed to establish fact of injury. The Office stated that it had requested additional factual and medical evidence by letter dated August 8, 2001, but that appellant had failed to respond to this request.

The Board finds that appellant has failed to establish that he sustained an injury in the performance of duty on June 24, 2001.

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[1] In the section on the form titled, "Nature of Injury," appellant stated "No physical injury."

An employee seeking benefits under the Federal Employees' Compensation Act[2] has the burden of establishing that the essential elements of his or 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 timely filed within the applicable time limitation period of the Act, 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.[3] These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.[4]

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.[5] 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.[6] The medical evidence required to establish causal relationship is usually rationalized medical 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.[7]

In this case, it is uncontested that appellant experienced the employment incident at the time, place and in the manner alleged. However, the question of whether an employment incident caused injury generally can be established by medical evidence[8] and appellant has not submitted rationalized probative medical evidence to establish that the employment incident on June 24, 2001 caused a personal injury and resultant disability. In this regard, the Board has held that the mere fact that a condition manifests itself during a period of employment does not raise an inference that there is a causal relationship between the two.[9] Neither the fact that the condition became apparent during a period of employment nor the belief that the condition was caused or aggravated by employment factors or incidents is sufficient to establish causal

[2] 5 U.S.C. §§ 8101-8193.

[3] *Joe Cameron*, 42 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

[4] *Victor J. Woodhams*, 41 ECAB 345 (1989).

[5] *John J. Carlone*, 41 ECAB 354 (1989).

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

[7] *Id.*

[8] *See John J. Carlone*, 41 ECAB 353 (1989).

[9] *See Joe T. Williams*, 44 ECAB 518, 521 (1993).

relationship.[10] Causal relationship must be established by rationalized medical opinion evidence and appellant failed to submit such evidence in the present case. The Office advised appellant of the type of evidence required to establish his claim; however, he failed to submit such evidence. Appellant, therefore, did not provide a medical opinion to describe or explain the medical process through which the June 24, 2001 work incident caused the claimed injury. Accordingly, as appellant failed to submit any probative medical evidence establishing that he sustained an injury in the performance of duty, the Office properly denied appellant's claim for compensation.

The Board notes, however, that the Office is responsible for medical expenses stemming from the June 24, 2001 injury pursuant to the Form CA-16, signed on June 24, 2001. An exception to the general rule that the Office must pay for only employment-related medical treatment arises when the Office or the employing establishment acting pursuant to the Office's regulations, authorizes the treatment in question.[11] Such authorization creates a contractual obligation, which does not involve appellant directly, to pay for the treatment authorized regardless of the action taken on the claim.[12] As the employing establishment authorized medical treatment on the June 24, 2001 Form CA-16, the Office should pay for medical expenses as authorized.[13]

The decision of the Office of Workers' Compensation Programs dated September 14, 2001 is affirmed.

Dated, Washington, DC
January 21, 2003

David S. Gerson
Alternate Member

Michael E. Groom
Alternate Member

A. Peter Kanjorski
Alternate Member

[10] *Id.*

[11] *Mamie L. Morgan*, 41 ECAB 661 (1990).

[12] *Id.*

[13] *See* 20 C.F.R. § 10.300.