

By letter dated October 16, 2003, the Office advised appellant that additional information was necessary to make a determination of his claim. The Office advised appellant about the type of factual and medical evidence he needed to submit to establish his claim. Appellant did not respond.

By decision dated November 20, 2003, after receiving no response from appellant within the allotted time, the Office denied his claim for failure to establish fact of injury. The Office found that the evidence supported that the claimed event of September 15, 2003 occurred. However, the Office found that appellant failed to submit medical evidence to support the presence of a medical condition which was caused or aggravated by the employment incident.

Appellant requested reconsideration on February 14, 2004 and submitted additional evidence.

On November 20, 2003 the Office received a copy of the motor vehicle accident report filed by appellant, a copy of an Ohio State Public Safety traffic crash report, a September 15, 2003 Better Workers' Compensation (BWC) first report of injury, occupational disease or death form, a September 15, 2003 work release form signed by Dr. James Schrichten, a Board-certified emergency medicine physician at Good Samaritan Hospital, a September 15, 2003 discharge sheet signed by Stacey Lang, RN, a copy of a September 15, 2003 medical chart from Good Samaritan Hospital signed by Nurse Lang, J. Douglas Harris, SA and Lila Gibbs and a September 15, 2003 x-ray interpretation by Dr. James M. Meranus, a Board-certified diagnostic radiologist.

The September 15, 2003 work release form indicated that appellant was treated by Dr. Schrichten in the emergency room and was released to work with restrictions, including no stooping, crouching or bending.

In a September 15, 2003 medical chart, appellant was diagnosed with a "Sprain/Strain, Neck, Cervical, Thoracic" and given instructions on his condition and the drugs prescribed for treatment of his condition. The medical chart also included under "vital signs – notes" that he had been rear ended in a motor vehicle accident and hit his head on the roof of the car which caused slight neck pain. The BWC form signed by Dr. Schrichten on September 15, 2003 included a history that appellant was rear-ended by another motor vehicle and experienced headache and neck ache. The physician listed the diagnosis as "847.0." A check mark "yes" indicated that the diagnosed condition was related to the described event.

Dr. Meranus reported normal extension and flexion in the cervical spine in a September 15, 2003 x-ray interpretation.

The September 15, 2003 discharge instructions from Good Samaritan Hospital, which were signed by Nurse Lang, indicated that appellant had been treated by Dr. Schrichten and the discharge diagnosis was a "Sprain/Strain, Neck, Cervical, Thoracic," given general information on the drugs he was prescribed and general information on sprains/strains.

By decision dated February 24, 2004, the Office denied modification of the November 20, 2003 decision. The Office found the evidence supported that the incident

occurred as alleged, but the medical evidence was insufficient as to a diagnosed condition due to the September 15, 2003 employment incident.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act¹ has the burden of establishing the essential elements of his 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.² These are the essential elements of each and every compensation claim regardless of whether the claim is predicated on a traumatic injury of an occupational disease.³

To determine whether an employee has sustained a traumatic injury in the performance of duty, "fact of injury" must first be established.⁴ 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.⁷

To establish a causal relationship between appellant's condition and any attendant disability claimed and the employment event or incident, he must submit rationalized medical opinion evidence based on a complete factual and medical background supporting such a causal relationship. Rationalized medical opinion evidence is medical evidence which includes a physician's 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.⁸

¹ 5 U.S.C. §§ 8101-8193.

² *Joe D. Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

³ See *Irene St. John*, 50 ECAB 521 (1999); *Michael E. Smith*, 50 ECAB 313 (1999); *Elaine Pendleton*, *supra* note 2.

⁴ *Neal C. Evins*, 48 ECAB 252 (1996).

⁵ *Michael W. Hicks*, 50 ECAB 325, 328 (1999).

⁶ 5 U.S.C. § 8101(5); 20 C.F.R. § 10.5(ee) (2003) (defining injury).

⁷ *Michael E. Smith*, *supra* note 3.

⁸ *Gary J. Watling*, 52 ECAB 278 (2001); *Shirley A. Temple*, 48 ECAB 404 (1997).

ANALYSIS

The Office found the evidence sufficient to establish that the incident occurred as alleged on September 15, 2003. The Board finds that appellant has submitted insufficient medical evidence to establish a causal relationship between his diagnosed conditions and the employment incident on September 15, 2003.

To establish causal relationship, appellant must submit a physician's report in which the physician reviews what factors of employment identified by him as causing his condition and, taking these factors into consideration as well as findings upon examination of appellant and his medical history, state whether these employment factors caused or aggravated appellant's diagnosed condition and present medical rationale in support of his opinion.⁹ Appellant failed to submit such evidence and, therefore, failed to discharge his burden of proof.

Appellant has not provided sufficient medical evidence that addresses the relationship of his medical treatment to the employment incident.

In the September 15, 2003 work release form, Dr. Schrichten noted that he had treated appellant in the emergency room and released him to work with restrictions. The report by Dr. Schrichten, however, does not contain a diagnosis or a history of the employment incident, nor does it address the issue of causal relationship between the diagnosed condition and the September 15, 2003 employment incident. Although the September 15, 2003 BWC form contains a history of injury and notes that appellant complained of headaches and neck aches, it only contained a numerical diagnosis which was not otherwise identified. The form was devoid of medical rationale explaining the check mark "yes" for causal relationship. The Board has held that reports containing a check mark on causal relationship are of little probative value and are thus, insufficient to establish causal relationship.¹⁰ In a September 15, 2003 x-ray interpretation, Dr. Meranus noted normal extension and flexion of the cervical spine. The Board has long held that medical reports not containing rationale on causal relation are entitled to little probative value.¹¹ Neither Dr. Meranus nor Dr. Schrichten provided a medical report containing an opinion explaining how appellant's condition was causally related to the accepted employment incident, they are of little probative value. Moreover, the work release form signed by Dr. Schrichten did not provide findings upon physical examination, a diagnosis or a well-reasoned discussion explaining how appellant's condition is causally related to his accepted

⁹ *Gary J. Watling*, *supra* note 8.

¹⁰ *See, e.g., Linda Thompson*, 51 ECAB 694, 696 (2000); *Barbara J. Williams*, 40 ECAB 649, 656 (1989).

¹¹ *Caroline Thomas*, 51 ECAB 451 (200) (medical reports not fortified by medical rationale are of little probative value.)

employment incident.¹² For these reasons, the reports by Drs. Meranus and Schrichten are insufficient to support appellant's burden of proof.

The remaining medical evidence submitted by appellant is insufficient to establish that his back condition was causally related to the September 15, 2003 employment incident. Nurse Lang, in discharge instructions, noted that appellant had been treated by Dr. Schrichten and the discharge diagnosis was a "Sprain/Strain, Neck, Cervical, Thoracic." The discharge instructions from Nurse Lang are of no probative value in establishing causal relationship since a nurse is not a "physician" within the meaning of the Act.¹³ Similarly, the medical chart submitted by appellant is insufficient to support his burden. While the medical chart noted that he had been in a motor vehicle accident and provided a diagnosis of "Sprain/Strain, Neck, Cervical, Thoracic," the report is not signed by a physician, thereby diminishing the probative value.¹⁴ The only signatures noted are those of Nurse Lang, Mr. Harris and Ms. Gibbs and none of these individuals are identified as a physician. As none of these individuals are a physician, this report cannot be considered medical evidence under the Act and thus, it is insufficient to meet appellant's burden of proof.¹⁵

Despite being advised of the deficiencies in his medical evidence, appellant failed to submit a rationalized medical opinion addressing the issue of causal relationship and, therefore, failed to establish fact of injury. As he has failed to establish fact of injury, he is not entitled to compensation.¹⁶

CONCLUSION

The Board finds that appellant has not established that he sustained a work-related injury on September 15, 2003.

¹² See *Charles W. Downey*, 54 ECAB ____ (Docket No. 02-218, issued February 24, 2003) (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, 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 established incident or factor of employment); *Louis T. Blair, Jr.*, 54 ECAB ____ (Docket No. 02-2289, issued January 16, 2003); *John W. Montoya*, 54 ECAB ____ (Docket No. 02-2249, issued January 3, 2003); *Betty J. Smith*, 54 ECAB ____ (Docket No. 02-149, issued October 29, 2002); see also *Theron J. Barham*, 34 ECAB 1070 (1983) (where the Board found that a vague and unrationalized medical opinion on causal relationship had little probative value).

¹³ *Vincent Holmes*, 53 ECAB ____ (Docket No. 00-2644, issued March 27, 2002).

¹⁴ See *Vickey C. Randall*, 51 ECAB 357, 361 (2000); *Merton J. Sills*, 39 ECAB 572, 575 (1988).

¹⁵ *Janet L. Terry*, 53 ECAB ____ (Docket No. 00-1673, issued June 5, 2002). (Lay individuals such as physician assistants, nurse practitioners and social workers are not competent to render a medical opinion).

¹⁶ *John H. Smith*, 41 ECAB 444 (1990).

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated February 25, 2004 is affirmed.

Issued: September 9, 2004
Washington, DC

Alec J. Koromilas
Chairman

Colleen Duffy Kiko
Member

Michael E. Groom
Alternate Member