

FACTUAL HISTORY

On June 16, 2004 appellant, a 53-year-old fee clerk, filed a traumatic injury claim alleging that her open wound on her right great toe was due to moving a heavy box with her foot to prop open a door.

By letter dated June 25, 2004, the Office advised appellant that the evidence of record was insufficient to establish her claim. It requested that she further describe the work activity she implicated in causing her condition and medical evidence identifying any condition caused and discussing causal relationship.

On June 22, 2004 the employing establishment controverted appellant's claim on the grounds that appellant provided different descriptions of how the injury occurred. It noted that she stated on her Form CA-1 that she had a blister on her toe and that she injured her toe while pushing a box and that her CA-17 and CA-16 forms indicate that she hit her toe on a box, with no mention of the blister.

On June 25, 2004 the Office received an authorization for examination and/or treatment (Form CA-16) dated June 18, 2004 by Dr. Jams M. McKee, a podiatrist, who included a history of injury that a door closed on appellant's right first toe causing a laceration and contusion. He diagnosed a diabetic toe wound and infection and checked "yes" to the question as to whether the injury was caused or aggravated by appellant's employment.

On July 23, 2004 the Office received an undated and unsigned duty status report (Form CA-17) including a history that appellant struck her right great toe on a box. The diagnosis was a "2 x 3 cm [centimeter] full thickness infected wound."

By decision dated July 28, 2004, the Office rejected appellant's claim finding that she failed to establish that she sustained an infected wound on her right first toe causally related to factors of her federal employment. The Office found that appellant had not submitted sufficient rationalized medical evidence discussing the causal relationship of her condition with the implicated employment factors.¹ The Office also found the evidence insufficient to establish that the incident occurred as alleged.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act has the burden of establishing that the essential elements of 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.² These are

¹ The Board notes that, subsequent to the Office's July 28, 2004 decision and with her appeal to the Board, appellant submitted new evidence. However, the Board may not consider new evidence for the first time on appeal; *see* 20 C.F.R. § 501.2(c).

² *Derrick C. Miller*, 54 ECAB ___ (Docket No. 02-140, issued December 23, 2002).

essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.

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 she actually experienced the employment incident at the time, place and in the manner alleged.³ 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.⁴ 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.⁵

The medical evidence required to establish causal relationship generally 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.⁶ The opinion of the physician must be based on a complete factual and medical background of the claimant,⁷ must be one of reasonable medical certainty⁸ 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.⁹

ANALYSIS

The Office found in its original decision of July 28, 2004 that appellant had failed to establish the event of June 16, 2004 and that she had submitted not submitted sufficient rationalized medical evidence discussing the causal relationship of her condition with the implicated employment factors. Appellant claimed in her CA-1 form that the nature of her injury was an open wound on her great right toe due to moving a heavy box with her foot. She mentioned no detailed account of and stated no apparent cause for the injury. The only medical reports submitted prior to the Office’s decision were a June 18, 2004 Form CA-16 by Dr. McKee

³ *John J. Carlone*, 41 ECAB 354 (1989).

⁴ *Id.* For a definition of the term “traumatic injury,” see 20 C.F.R. § 10.5(ee).

⁵ *Id.*; see *Tomas Martinez*, 54 ECAB ____ (Docket No. 03-396, issued June 16, 2003).

⁶ *Conard Hightower*, 54 ECAB ____ (Docket No. 02-1568, issued September 9, 2003).

⁷ *Tomas Martinez*, *supra* note 5.

⁸ *John W. Montoya*, 54 ECAB ____ (Docket No. 02-2249, issued January 3, 2003).

⁹ *Judy C. Rogers*, 54 ECAB ____ (Docket No. 03-565, issued July 9, 2003).

diagnosing a diabetic toe wound and infection and an signed Form CA-17 diagnosing a “2x3 cm [centimeter] full thickness infected wound.” No evidence whatsoever was presented of a causal relationship between the alleged injury and the diagnosed condition. Appellant did not respond to the questions posed by the Office in its June 25, 2004 letter requesting further information regarding the work activity implicated and medical evidence identifying a condition caused by the incident with supporting medical rationale. Her vague recitation of the facts as she perceived them does not support her allegation that a specific event occurred which caused an injury.

In *Tracey P. Spillane*,¹⁰ an employee filed a claim alleging that she sustained an allergic reaction at work. However, because she did not clearly identify the aspect of her employment which she believed caused her to suffer the claimed condition, but only made vague references to “possibly having a reaction to magazines or latex gloves,” the Board held that she had not adequately specified the employment factors which she felt caused her need for medical treatment, nor did she specify such details as to the extent and duration of exposure to any given employment factors. Medical reports reflected that the employee had not clearly reported to her physicians that she felt her claimed condition was due to a specific and identifiable employment factor. Similarly, in the instant case, appellant’s allegations are vague and do not relate with specificity the cause of the injury (*i.e.*, how pushing a box with her foot in a shoe caused an infected wound), the nature of her toe prior to the incident or the nature of the employment activity in which she was engaged at the time of the alleged injury;). Therefore, the Board finds that appellant has not met her burden of proof to establish that she sustained an injury in the performance of duty.

The Board notes that the medical evidence submitted does not assist appellant in establishing that she sustained a traumatic injury at the time and in the manner alleged. With regard to whether appellant injured her right great toe at the time, place and in the manner described, appellant contends that her right toe injury is employment related. In support of her claim, appellant submitted a Form CA-16 from her attending podiatrist, Dr. McKee, who diagnosed a diabetic toe wound and infection in a June 18, 2004 report. However, he did not provide an opinion which related this diagnosis to the June 16, 2004 alleged employment incident. The weight of medical opinion is determined by the opportunity for and thoroughness of examination, the accuracy and completeness of the physician’s knowledge of the facts of the case, the medical history provided, the care of analysis manifested and the medical rationale expressed in support of stated conclusions.¹¹ Although Dr. McKee did present a diagnosis of appellant’s condition, he did not address whether this condition was causally related to the alleged June 16, 2004 employment incident. There is no indication in the record, therefore, that this injury was work related. Dr. McKee failed to provide a rationalized, probative medical opinion relating appellant’s current condition to any factors of her employment. The June 18, 2004 form report from Dr. McKee, which provided a checkmark in support of causal relationship is insufficient to establish the claim. The Board has held that, without further explanation or rationale, a checked box is insufficient to establish causation.¹²

¹⁰ *Tracey P. Spillane*, 54 ECAB ____ (Docket No. 02-2190, issued June 12, 2003).

¹¹ See *Anna C. Leanza*, 48 ECAB 115 (1996).

¹² *Debra S. King*, 44 ECAB 203 (1992); *Salvatore Dante Roscello*, 31 ECAB 247 (1979).

The unsigned and undated duty status report is of no probative value as the identification of the preparer is unknown and cannot be properly identified as a physician.¹³

The Office advised appellant of the evidence required to establish her claim; however, she failed to submit such evidence. Accordingly, as appellant has failed to submit any probative medical evidence establishing that she sustained a right great toe injury in the performance of duty, the Board finds that the Office properly denied appellant's claim for compensation.

CONCLUSION

The Board finds the evidence insufficient to establish that appellant sustained an injury in the performance of duty on June 16, 2004, as alleged.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated July 28, 2004 is affirmed.

Issued: June 10, 2005
Washington, DC

Alec J. Koromilas
Chairman

Colleen Duffy Kiko
Member

David S. Gerson
Alternate Member

¹³ See *Merton J. Sills*, 39 ECAB 572 (1988).