

**United States Department of Labor
Employees' Compensation Appeals Board**

HELEN M. DOBBS, Appellant

and

**DEPARTMENT OF VETERANS AFFAIRS,
VETERANS ADMINISTRATION MEDICAL
CENTER, Leavenworth, KS, Employer**

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**Docket No. 06-1008
Issued: July 18, 2006**

Appearances:
Helen M. Dobbs, pro se
Office of the Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

ALEC J. KOROMILAS, Chief Judge
DAVID S. GERSON, Judge
MICHAEL E. GROOM, Alternate Judge

JURISDICTION

On March 24, 2006 appellant filed a timely appeal from decisions of the Office of Workers' Compensation Programs dated March 3, 2006 and August 23, 2005 finding that she did not sustain employment-related cervical, left shoulder and left arm conditions. Under 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

ISSUE

The issue is whether appellant has met her burden of proof in establishing that her claimed cervical, left shoulder and left arm conditions were causally related to her employment.

FACTUAL HISTORY

On June 3, 2005 appellant, a 62-year-old nursing assistant, filed a claim for benefits alleging that on May 30, 2005 she experienced pain and numbness in her left shoulder and arm which she related to factors of her employment.

By letter dated June 28, 2005, the Office advised appellant that it required additional factual and medical evidence to determine whether she was eligible for compensation benefits. The Office asked appellant to submit a comprehensive medical report from a treating physician describing her symptoms and an opinion as to whether her claimed conditions were causally related to her federal employment.

Appellant submitted a June 10, 2005 report containing results of a magnetic resonance imaging (MRI) scan. The report stated that appellant had neck pain with bilateral cervical radiculopathy and cervical spondylosis, most evident at the C4-5 and C5-6 levels. The MRI scan showed disc space narrowing with disc bulging, bilateral foraminal stenosis and moderate central spinal stenosis secondary to disc bulging and bony degenerative changes, with no evidence of a discrete disc herniation. The report did not contain an opinion as to whether the diagnosed conditions were causally related to factors of her employment.

By decision dated August 23, 2003, the Office denied appellant's claim that she sustained employment-related cervical, left shoulder and left arm conditions cervical and bilateral arm conditions. The Office found that she failed to establish fact of injury.

On September 12, 2005 appellant requested reconsideration. She submitted a September 3, 2005 statement contending that, on May 30, 2005, she lifted a patient into bed, removed his clothing, turned him on his side, placed him in a sling, and pulled the bed to a different place in the room. After leaving the room, appellant experienced pain in her neck and had difficulty controlling her hands. The statement was co-signed by two coworkers of appellant.

By decision dated November 17, 2005, the Office modified the September 12, 2005 decision accepting the work incident of May 30, 2005. The Office found, however, that appellant failed to submit sufficient medical evidence containing a history of injury, a diagnosis and rationalized medical opinion factors sufficient to establish a causal relationship between the claimant's diagnosed condition and the implicated employment factors.

Appellant submitted treatment notes from March 17, 1995 through May 20, 1997 and x-ray reports dated March 30 and April 14, 1997. None of these reports contained a probative, rationalized opinion indicating appellant's claimed neck, shoulder and arm injuries were causally related to the May 30, 2005 work incident.

By decision dated March 3, 2006, the Office found that appellant failed to establish that she sustained neck, shoulder and arm injuries in the performance of duty on May 30, 2005.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act¹ 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

¹ 5 U.S.C. §§ 8101-8193.

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 upon a traumatic injury or an occupational disease.³

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.⁴ 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.⁵ 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.⁶

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.⁷

An award of compensation may not be based on surmise, conjecture or speculation. Neither the fact that appellant’s condition became apparent during a period of employment nor the belief that her condition was caused, precipitated or aggravated by his employment is sufficient to establish causal relationship.⁸ Causal relationship must be established by rationalized medical opinion evidence and appellant failed to submit such evidence.

ANALYSIS

In this case, it is uncontested that appellant lifted and moved a patient on May 30, 2005 at the time, place and in the manner alleged. However, the question of whether an employment incident caused a personal injury generally can be established only by medical evidence.⁹

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

³ *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁴ *John J. Carlone*, 41 ECAB 354 (1989).

⁵ *Id.* For a definition of the term “injury,” see 20 C.F.R. § 10.5(a)(14).

⁶ *Id.*

⁷ *See Joe T. Williams*, 44 ECAB 518, 521 (1993).

⁸ *Id.*

⁹ *John J. Carlone*, *supra* note 4.

Appellant has not submitted probative medical evidence to establish that the employment incident of May 30, 2005 caused a personal injury and resultant disability.

The only medical documents appellant submitted were the June 10, 2005 MRI scan report and treatment notes from March 17, 1995 through May 20, 1997. None of these documents contained a rationalized medical opinion which related a diagnosis of injury to the May 30, 2005 work 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.¹⁰ Although the June 30, 2005 MRI scan report presented a diagnosis of appellant's condition, it did not address whether this condition was causally related to the May 30, 2005 work incident. There is no indication in the record, therefore, that this injury was work related. The medical evidence from 1995 to 1997 is irrelevant to the issue of whether appellant sustained an injury on May 30, 2005. Appellant therefore failed to provide a rationalized, probative medical opinion relating her cervical condition to the accepted incident.

The Office advised appellant of the evidence required to establish her claim; however, appellant failed to submit such evidence. Appellant, therefore, did not provide a medical opinion to sufficiently describe or explain the medical process through which the May 30, 2005 work accident would have caused or aggravated her cervical condition. Accordingly, as appellant has failed to submit any probative medical evidence establishing that she sustained an injury to her neck, left shoulder and left arm in the performance of duty, the Office properly denied appellant's claim for compensation.

CONCLUSION

The Board finds that appellant has failed to establish that he sustained an injury to her neck, left shoulder and left arm in the performance of duty on May 30, 2005.

¹⁰ See *Anna C. Leanza*, 48 ECAB 115 (1996).

ORDER

IT IS HEREBY ORDERED THAT the March 3, 2006 and August 23, 2005 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: July 18, 2006
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

David S. Gerson, Judge
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board