

In a November 16, 2006 statement, appellant noted that he worked the “day fire” from September 16 to 26, 2006 and was advised to get tested for the disease valley fever. He stated that his test was negative for the disease and he received no medical treatment at that time. Copies of an October 3, 2006 occupational exposure report from the employing establishment, an October 3, 2006 supervisor’s report of injury/illness and an October 26, 2006 incident summary report confirmed that appellant was exposed to valley fever from September 16 to 26, 2006.

By letter dated December 6, 2006, the Office advised appellant of the factual and medical evidence needed to establish his claim and requested that he submit a physician’s reasoned opinion containing a diagnosis and addressing the relationship of his claimed condition and specific employment factors. No additional evidence was received.

In a decision dated January 17, 2007, the Office denied appellant’s claim on the grounds that he failed to establish fact of injury.

In a letter dated February 6, 2007, appellant requested reconsideration. In an October 3, 2006 report, Dr. Ross E. Morgan, a Board-certified family practitioner, noted that appellant had significant dust inhalation and exposure at the Los Padres fire at Los Padres National Forest from September 16 to 26, 2006 and was instructed by personnel there to be tested for valley fever. Dr. Morgan indicated that appellant’s examination was normal and that a chest x-ray was negative. He found that appellant’s exposure to coccidioides showed no evidence of an active infection and stated that there were no restrictions to appellant’s work at this time. In the event of a positive test indicating new acute exposure, treatment with antibodies was recommended. Copies of an October 3, 2006 chest x-ray, an October 3, 2006 laboratory out-patient requisition and the final report of the testing results which showed a negative result for the presence of coccidioides “Abs, IgG/IgM” and “EIA” were also submitted.

In an April 12, 2007 decision, the Office denied modification of its January 17, 2007 decision. The Office found that appellant established the employment incident of being exposed to a soil fungus. However, he did not sustain an injury in the performance of duty as a medical condition had not been diagnosed as a result of the employment exposure.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees’ Compensation Act¹ has the burden of establishing 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 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

¹ 5 U.S.C. §§ 8101-8193.

² *Caroline Thomas*, 51 ECAB 451 (2000); *Elaine Pendleton*, 40 ECAB 1143 (1989).

compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.³

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed;⁴ (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition;⁵ and (3) medical evidence establishing the employment factors identified by the claimant were the proximate cause of the condition for which compensation is claimed or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant.⁶

Generally, causal relationship may be established only by rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence that 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.⁷ The opinion of the physician must be based on a complete factual and medical background of the claimant,⁸ must be one of reasonable medical certainty⁹ 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.¹⁰

ANALYSIS

The Board finds that the work incident occurred during the period September 16 to 26, 2006, which consisted of appellant being exposed to dust inhalation from fungus or coccidioides from the soil of the Los Padres National Forest.¹¹

Appellant submitted a report from Dr. Morgan, dated October 3, 2006, who noted that appellant had significant dust inhalation and exposure during the Los Padres fire from September 16 to 26, 2006 and was instructed by personnel there to be tested for valley fever.

³ See *Irene St. John*, 50 ECAB 521 (1999); *Michael E. Smith*, 50 ECAB 313 (1999).

⁴ *Solomon Polen*, 51 ECAB 341 (2000).

⁵ *Marlon Vera*, 54 ECAB 834 (2003); *Roger Williams*, 52 ECAB 468 (2001).

⁶ *Ernest St. Pierre*, 51 ECAB 623 (2000).

⁷ *Conard Hightower*, 54 ECAB 796 (2003); *Leslie C. Moore*, 52 ECAB 132 (2000).

⁸ *Tomas Martinez*, 54 ECAB 623 (2003); *Gary J. Watling*, 52 ECAB 278 (2001).

⁹ *John W. Montoya*, 54 ECAB 306 (2003).

¹⁰ *Judy C. Rogers*, 54 ECAB 693 (2003).

¹¹ An employee's statement alleging that an incident or exposure occurred at a given time and in a given manner is of great probative value and will stand unless refuted by strong or persuasive evidence. See *Edward W. Malaniak*, 51 ECAB 451 (2000).

Dr. Morgan indicated that, while the testing revealed appellant was exposed to coccidioides, there was no evidence of an active infection as the physical examination and testing was normal. His recommended treatment only in the event of a positive coccidioides IgM test which was not present at the time appellant was examined.

Appellant therefore has not established that he contracted any disease resulting from his exposure to coccidioides. His claim was for exposure to an airborne fungus, but all the tests he underwent for a resulting disease arising from such exposure were negative. None of the medical evidence of record establishes that appellant contracted a disease from his exposure to coccidioides or that he sustained any personal injury at work.

To the extent that appellant may be seeking reimbursement for the medical testing which “was recommended by an agency person ... to get it checked,” the Board notes that Office regulations¹² recognize that “[e]mployers may be required under other statutes or regulations to provide their employees with medical testing” in situations of workplace hazard exposures such as here.¹³

CONCLUSION

Appellant has not met his burden of proof in establishing that he developed an occupational disease in the performance of duty.

¹² 20 C.F.R. §10.303(b).

¹³ On appeal, appellant expresses his concern that, should this workplace exposure cause injury in the future, he “would like to be protected.” Since the employer has received notice of exposure and the Office has accepted exposure, appellant may, at any time in the future, present medical evidence of any injurious effects which may develop along with a claim for compensation for disability or medical treatment from the accepted exposure.

ORDER

IT IS HEREBY ORDERED THAT the April 12 and January 17, 2007 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: December 6, 2007
Washington, DC

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

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

James A. Haynes, Alternate Judge
Employees' Compensation Appeals Board