

¹ There is no explanation as to why appellant's claim was filed more than one year after the claimed date of injury.

mercury which spilled onto the floor. He contacted the fire department which used a mercury spill kit to clean up the mercury on the floor and in the drain. Appellant did not stop work.

On August 22, 2007 the Office asked appellant to submit additional evidence within 30 days, including a medical report containing a diagnosis of his condition and medical rationale explaining how the condition was causally related to the June 13, 2006 incident. No response was received.

By decision dated September 24, 2007, the Office denied appellant's claim on the grounds that the evidence did not establish that he sustained an employment-related injury on June 13, 2006.²

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act³ has the burden to establish 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 timely filed, that an injury was sustained in the performance of duty as alleged and that any disability or medical condition for which compensation is claimed is causally related to the employment injury.⁴

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it first must be determined whether the "fact of injury" has been established. There are two components involved in establishing the fact of injury. First, the employee must submit sufficient evidence to establish that he actually experienced the employment incident at the time, place and in the manner alleged.⁵ Second, the employee must submit medical evidence to establish that the employment incident caused a personal injury.⁶ An employee may establish that the employment incident occurred as alleged but fail to show that his disability or condition relates to the employment incident.

To establish a causal relationship between a claimant'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

² Subsequent to the September 24, 2007 Office decision, appellant submitted additional evidence. The Board's jurisdiction is limited to the evidence that was before the Office at the time it issued its final decision. See 20 C.F.R. § 501.2(c). The Board may not consider this evidence for the first time on appeal. The Board notes that, even if the evidence had been timely submitted, it did not include any medical evidence.

³ 5 U.S.C. §§ 8101-8193.

⁴ *Steven S. Saleh*, 55 ECAB 169 (2003); *Elaine Pendleton*, 40 ECAB 1143 (1989).

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

⁶ *Shirley A. Temple*, 48 ECAB 404 (1997).

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

ANALYSIS

The Board finds that the evidence is insufficient to establish that appellant sustained an injury on June 13, 2006 while in the performance of duty.

Appellant alleged that he was injured when he attempted to unclog a drain and mercury spilled out of the drain and onto the floor. The Office advised him of the factual and medical evidence necessary to establish his claim and allotted 30 days for the submission of additional evidence. No evidence was submitted by appellant. He did not provide evidence establishing that the claimed work incident occurred at the time, place and in the manner alleged and medical evidence establishing that he sustained an injury causally related to the June 13, 2006 incident. Appellant has failed to submit a *prime facie* claim for compensation.⁸ Therefore, he failed to meet his burden of proof and the Office properly denied his claim.

CONCLUSION

The Board finds that appellant failed to establish that he sustained an injury on June 13, 2006 while in the performance of duty.

⁷ Gary J. Watling, 52 ECAB 278 (2001); Shirley A. Temple, *supra* note 6.

⁸ See Donald A. Wenzel, 56 ECAB 390 (2005); Richard A. Weiss, 47 ECAB 182 (1995).

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated September 24, 2007 is affirmed.

Issued: March 25, 2008
Washington, DC

David S. Gerson, Judge
Employees' Compensation Appeals Board

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

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