

radiating into her arms and legs as a result of her federal employment. She stated that she had experienced chronic pain for two years and was aware of her condition on March 5, 2007.¹

On August 3, 2009 appellant submitted a January 9, 2009 letter to Dr. Scott Long, her treating physiatrist. She noted symptoms such as tight muscles on her left side, inner ear pain with ringing in the ears, dizziness and headaches since March 5, 2007. Appellant indicated that she was deaf and obtained two new hearing aids in February 2007. According to her, “The employees mostly approach behind me and scream at my hearing aids. And it shocked via my sternocleidomastoid muscle and it hurt/sore for three days.” Appellant stated that one employee screamed in a high pitched tone and she had pain in her middle ear that spread to other parts of her body. She stated that she would “turn my head around and it put pressure on my neck. I avoid the mocking employees who approach behind me. And it put pressure on muscle and my back spine from head to lower (poor posture). The mocking employees never tap on my shoulder and get my attention and attempt to read their lips movement since five years.” Appellant described the actions of her coworkers as harassment.

With respect to the medical evidence, appellant submitted reports from Dr. Long regarding her treatment. In an October 4, 2007 report, Dr. Long diagnosed cervical radiculopathy, chronic cervical sprain/strain and myofascial pain disorder. On February 5, 2008 he indicated that appellant was being treated for brachial neuritis and cervical radiculopathy. In an August 6, 2009 report, Dr. Long noted a “constellation of symptoms” including left-sided arm pain. Appellant also submitted June 6, 2009 cervical and lumbar (MRI) scan magnetic resonance imaging results.

In a September 10, 2009 decision, the Office denied the claim for compensation. The Office found the factual and medical evidence was insufficient to establish the claim.

LEGAL PRECEDENT

A claimant seeking benefits under the Federal Employees’ Compensation Act² has the burden of establishing the essential elements of her claim by the weight of the reliable, probative and substantial evidence, including that an injury was sustained in the performance of duty as alleged and that any specific condition or disability claimed is causally related to the employment injury.³

To establish that an injury was sustained in the performance of duty, a claimant must submit: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition;

¹ The Office reported that appellant had previously filed a claim for injury on March 5, 2007 under OWCP File No. xxxxxx111.

² 5 U.S.C. §§ 8101-8193.

³ 20 C.F.R. § 10.115(e), (f) (2005); see *Jacquelyn L. Oliver*, 48 ECAB 232, 235-36 (1996).

and (3) medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant.⁴

Causal relationship is a medical question that can generally be resolved only by rationalized medical opinion evidence.⁵ 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 must be based on a complete factual and medical background.⁶ In order to be considered rationalized, the opinion must be expressed in terms of a reasonable degree of medical certainty and must be supported with medical rationale, explaining the nature of the relationship between the diagnosed condition and the claimant's specific employment factors.⁷

ANALYSIS

Appellant's burden of proof to establish her occupational claim includes, identifying those employment factors alleged to have contributed to a diagnosed injury. In this case, appellant did not submit a detailed factual statement regarding her work factors. In a letter written to her physician she referred generally to coworkers screaming at her. Appellant did not clearly explain the nature and extent of this conduct by coworkers and there is no supporting evidence such as witness statements.⁸ She also referred to turning her head, but again it is not clear how often this occurred or under what circumstances, such that an accurate factual background for the claim can be established.

The Board also notes that appellant's burden of proof includes both factual and medical evidence. Once the factual background is established, there must be medical evidence that provides a diagnosis of a specific condition and a rationalized opinion that the diagnosed condition is causally related to the identified employment factors. The medical evidence submitted does not provide any opinion on causal relationship with employment. The reports from Dr. Long do not discuss employment factors or provide an opinion on the relationship of any diagnosed condition to appellant's work as a tax examiner technician. For these reasons, the Board finds that appellant did not meet her burden of proof in this case.

CONCLUSION

The Board finds that appellant did not establish an injury causally related to factors of her federal employment.

⁴ *Ruby I. Fish*, 46 ECAB 276, 279 (1994).

⁵ *See Robert G. Morris*, 48 ECAB 238 (1996).

⁶ *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

⁷ *Id.*

⁸ Appellant also briefly characterized the actions of coworkers as harassment. To the extent she is claiming an injury from harassment, appellant must submit probative factual evidence to substantiate a claim of harassment as a compensable work factor. *See, e.g., David C. Lindsey, Jr.*, 56 ECAB 263 (2005).

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated September 10, 2009 is affirmed.

Issued: July 12, 2010
Washington, DC

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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

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