

U.S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ROBERT F. HOLUB and DEPARTMENT OF THE INTERIOR,
BUREAU OF MINES, Denver, Colo.

*Docket No. 96-1598; Submitted on the Record;
Issued May 19, 1998*

DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,
WILLIE T.C. THOMAS

The issue is whether appellant sustained an injury in the performance of duty on September 21, 1995.

The Board finds that the Office of Workers' Compensation Programs has failed to provide a clear description of the basis of its denial of appellant's claim.

When an employee claims that he sustained an injury in the performance of duty, he must submit sufficient evidence to establish that he experienced a specific event, incident or exposure occurring at the time, place and in the manner alleged. He must also establish that such event, incident or exposure caused an injury.¹ Once an employee establishes that he sustained an injury in the performance of duty, he has the burden of proof to establish that any subsequent medical condition or disability for work for which he claims compensation is causally related to the accepted injury.²

In its January 17, 1996 decision, the Office accepted that appellant sustained an injury in the performance of duty on September 21, 1995. The Office also authorized medical expenses for treatment of the accepted injury. The Office denied appellant's disability claim, however, on the grounds that the medical evidence of record failed to demonstrate that the claimed condition or disability was causally related to the accepted injury.

Although it found that appellant sustained an injury in the performance of duty, the Office failed to identify the medical condition that appellant sustained and for which it was authorizing treatment. The Board notes that the record contained no medical evidence when the

¹ See generally *John J. Carlone*, 41 ECAB 354 (1989); see also 5 U.S.C. § 8101(5) ("injury" defined); 20 C.F.R. §§ 10.5(a)(15), 10.5(a)(16) ("traumatic injury" and "occupational disease or illness" defined).

² *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

Office issued its January 17, 1996 decision. Further, on its Form CA-800, the FECA Nonfatal Summary form, the Office left blank the section for “Conditions caused by injury” and noted that appellant’s claim was formally disapproved for failure to establish “fact of injury.” It is not clear, therefore, whether the Office accepted that appellant had in fact discharged his burden of proof to establish that he sustained an injury in the performance of duty on September 21, 1995 and was entitled to appropriate benefits, or whether appellant had established only the incident of September 21, 1995 without showing that a medical condition resulted therefrom.

In determining whether a claimant has discharged his burden of proof and is entitled to compensation, the Office is required by statute and regulation to make findings of fact.³ The Office’s Procedure Manual provides that it is very important for the Office to provide “a correct description of the basis for denial so that the parties of interest will have a clear understanding of the precise defect of the claim and the kind of evidence which would tend to overcome it.”⁴ These requirements are supported by Board precedent.⁵ The Board is unable to discern the true basis of the Office’s denial of appellant’s claim, much less whether the evidence of record supports a denial on that basis.⁶

In view of the foregoing, the Board will remand the case to the Office for such further development and consideration of the evidence as may be necessary and for an appropriate final decision that includes findings of fact and a clear and precise description of the basis thereof.

³ See 5 U.S.C. § 8124(a); 20 C.F.R. § 10.130.

⁴ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Disallowances*, Chapter 2.1400.9(a)(6) (July 1993).

⁵ See, e.g., *James D. Boller*, 12 ECAB 45 (1960).

⁶ The Board’s jurisdiction is limited to reviewing the evidence that was before the Office at the time of its final decision. 20 C.F.R. § 501.2(c). The Board therefore has no jurisdiction to review medical evidence received by the Office after its January 17, 1996 decision.

The January 17, 1996 decision of the Office of Workers' Compensation Programs is set aside and the case remanded for further action in accordance with this decision.

Dated, Washington, D.C.
May 19, 1998

Michael J. Walsh
Chairman

David S. Gerson
Member

Willie T.C. Thomas
Alternate Member