U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of AURA L. MARTINEZ and DEPARTMENT OF AGRICULTURE, FARMERS HOME ADMINISTRATION, Hatillo, Puerto Rico

Docket No. 97-853; Submitted on the Record;
Issued May 27, 1998

DECISION and ORDER

Before GEORGE E. RIVERS, MICHAEL E. GROOM, BRADLEY T. KNOTT

The issue is whether appellant met her burden of proof to establish that she sustained an employment injury in the performance of duty on October 14, 1994.

The Board has duly reviewed the case record in the present appeal and finds that appellant did not meet her burden of proof to establish that she sustained an employment injury in the performance of duty on October 14, 1994.

An employee seeking benefits under the Federal Employees' Compensation Act[1] 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 timely filed within the applicable time limitation period of the Act, that an injury was sustained 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 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 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

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[1] 5 U.S.C. §§ 8101-8193.

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

[3] *Delores C. Ellyett*, 41 ECAB 992, 998-99 (1990); *Ruthie M. Evans*, 41 ECAB 416, 423-27 (1990).

time, place and in the manner alleged.[4] Second, the employee must submit evidence, in the form of medical evidence, to establish that the employment incident caused a personal injury.[5] The term "injury" as defined by the Act, refers to some physical or mental condition caused by either trauma or by continued or repeated exposure to, or contact with, certain factors, elements or conditions.[6]

In the present case, appellant alleged in an October 18, 1994 traumatic injury claim form that she sustained contusions to her left hip, back and right knee when she fell at work on October 14, 1994. The occurrence of the employment incident on October 14, 1994 has been accepted, but appellant did not submit sufficient medical evidence to establish that she sustained an employment injury due to this incident.

Appellant submitted a December 27, 1995 report in which Dr. Victor M. Mojica, an attending Board-certified neurologist, indicated that due to the October 14, 1994 fall at work she sustained a mild brain concussion, traumatic vestibular dysfunction manifested by imbalance, neck strain with secondary cervicogenic vascular autonomic headaches and vertigo. This report, however, is of limited probative value on the relevant issue of the present case in that it does not contain adequate medical rationale in support of its conclusions on causal relationship.[7] Dr. Mojica did not describe the October 14, 1994 employment incident in any detail or explain the medical process through which the type of fall appellant sustained on October 14, 1994 could have caused the diagnosed conditions. Dr. Mojica's opinion is of limited probative value for the further reason that it is not based on a complete and accurate factual and medical history.[8] Dr. Mojica noted that appellant reported she hit her head when she fell on October 14, 1994. However, the record does not contain any statement from around the time of the October 14, 1994 fall in which appellant indicated that she hit her head during the fall; nor does the record contain any medical evidence from around the time of the October 14, 1994 fall which contains an indication that appellant reported hitting her head during the fall.

Appellant also submitted a May 6, 1996 report in which Dr. Sonia Guzman-Silvagnoli, an attending physician specializing in emergency medicine, stated that due to the October 14, 1994 fall at work she sustained a mild brain contusion, traumatic vestibular dysfunction manifested by imbalance, neck strain with secondary cervicogenic vascular autonomic headaches and vertigo. This report, however, also is of limited probative value on the relevant issue of the

[4] *Julie B. Hawkins*, 38 ECAB 393, 396 (1987); *see* Federal (FECA) Procedure Manual, Part 2 -- Claims, *Fact of Injury*, Chapter 2.803.2a (June 1995).

[5] *John J. Carlone*, 41 ECAB 354, 356-57 (1989); *see* Federal (FECA) Procedure Manual, Part 2 -- Claims, *Fact of Injury*, Chapter 2.803.2a (June 1995).

[6] *Elaine Pendleton, supra* note 2; 20 C.F.R. § 10.5(a)(14).

[7] *See Leon Harris Ford*, 31 ECAB 514, 518 (1980) (finding that a medical report is of limited probative value on the issue of causal relationship if it contains a conclusion regarding causal relationship which is unsupported by medical rationale).

[8] *See William Nimitz, Jr.*, 30 ECAB 567, 570 (1979) (finding that a medical opinion on causal relationship must be based on a complete and accurate factual and medical history).

present case in that it does not contain adequate medical rationale in support of its opinion on causal relationship.[9] Dr. Guzman-Silvagnoli's report is not based on a complete and accurate factual and medical history in that she also reported appellant hit her head at the time of the October 14, 1994 fall; Dr. Guzman-Silvagnoli did not adequately detailing the basis for such a history.[10] The record contains other reports, dated between June and August 1995, in which Dr. Guzman-Silvagnoli indicated that appellant sustained a head injury on October 14, 1994, but these reports do not contain sufficient medical rationale in support in their opinions on causal relationship. Appellant submitted other medical reports but none of these reports provided an opinion that she sustained an employment-related injury on October 14, 1994.

The decisions of the Office of Workers' Compensation Programs dated August 5 and March 18, 1996 are affirmed.

Dated, Washington, D.C.
May 27, 1998

George E. Rivers
Member

Michael E. Groom
Alternate Member

Bradley T. Knott
Alternate Member

[9] *See George Randolph Taylor*, 6 ECAB 986, 988 (1954) (finding that a medical opinion not fortified by medical rationale is of little probative value). It should be noted that it appears the May 6, 1996 report of Dr. Guzman-Silvagnoli was typed on the same typewriter used to produce appellant's May 6, 1996 reconsideration request.

[10] Dr. Guzman-Silvagnoli indicated that she treated appellant on October 15, 1994 for a head trauma and body contusion which she sustained due to a fall at work on October 14, 1994. The record does not contain any report documenting an October 15, 1994 visit to Dr. Guzman-Silvagnoli.