

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of MOLLIE A. SABO and DEPARTMENT OF THE ARMY,  
Fort Bragg, NC

*Docket No. 98-884; Submitted on the Record;  
Issued December 14, 1999*

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DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS,  
A. PETER KANJORSKI

The issue is whether appellant has met her burden of proof in establishing that she sustained a severe muscle strain of the lower back in the performance of duty on July 9, 1997.

On November 10, 1997 appellant, then a 20-year-old general student trainee/ROTC cadet, filed a notice of traumatic injury (Form CA-1) alleging that she injured her low back while at airborne school from June 17 to July 11, 1997. The CA-1 indicated:

“[Appellant] was wearing heavy combat gear (*i.e.*, main and reserve parachutes, additional jump equipment) for three to four hours prior to her last jump. The pain did not become evident until the day after graduation. It began to increase during the one and a half months prior to returning to school. She then sought medical attention on September 24, 1997.”

Captain Darlene R. Pelletier, appellant's supervisor, completed the witness' section of the form stating that appellant related to her that she began school three weeks after she began experiencing back pain. She noted that appellant was advised to get bedrest and thereafter sought medical attention to determine the nature of her injury. The reverse of the CA-1 form indicated that appellant was treated on September 4, 1997 by Dr. Goerdts at the University of Iowa Hospital and Clinics.

Accompanying appellant's claim were letters from the employing establishment dated November 4, 1997. The letters included a statement from Captain Pelletier stating that “[appellant] acquired severe muscle strain of her lower back while participating in scheduled, supervised airborne training.” She concluded her letter with “[appellant's] injury was sustained in the line of duty.” Jacob A. Garcia, Lieutenant, submitted a letter in which he noted that appellant strained her low back while “in the line of duty.” Also included was an authorization for disclosure of information signed by appellant.

By letter dated November 17, 1997, the Office of Workers' Compensation Programs advised appellant that additional information was required in reference to her claim for muscle strain of the low back under the Federal Employees' Compensation Act.<sup>1</sup> The Office provided a list of questions of a medical and factual nature and allotted appellant 30 days in which to submit the requested evidence. Appellant submitted medical bills from the University of Iowa Hospital and Clinics.

By decision dated December 31, 1997, the Office denied appellant's claim finding that she failed to establish that she sustained an injury, as alleged.

The Board finds that appellant did not meet her burden of proof to establish that she sustained an injury to her lower back in the performance of duty on July 9, 1997, as alleged.

An employee seeking benefits under the Act 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.<sup>2</sup> These are the essential elements of each compensation claim regardless of whether the claim is predicted upon a traumatic injury or occupational disease.<sup>3</sup>

In a traumatic injury case, in order to determine whether an employee actually sustained an injury in the performance of duty, it must first be determined whether "fact of injury" has been established. First, the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time, place and in the manner alleged.<sup>4</sup> Second, the employee must submit sufficient evidence, generally only in the form of medical evidence, to establish that the employment incident caused a personal injury.<sup>5</sup> The medical evidence required to establish causal relationship is usually rationalized medical evidence. Rationalized medical evidence is medical evidence, which 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. The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of 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.<sup>6</sup>

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<sup>1</sup> 5 U.S.C. §§ 8101-8193.

<sup>2</sup> *Joe D. Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

<sup>3</sup> *Victor J. Woodhams*, 41 ECAB 345 (1989).

<sup>4</sup> *John J. Carlone*, 41 ECAB 354 (1989).

<sup>5</sup> *Id.* For a definition of the term "injury," see 20 C.F.R. § 10.5(a)(14).

<sup>6</sup> *Id.*

In the present case, appellant did submit statements to the Office wherein she and her superiors described the factors of employment they believed caused appellant's low back injury. On November 17, 1997 the Office advised appellant that she was to submit medical evidence explaining causal relationship between her claimed injury and her alleged factors of employment.

Appellant did not submit medical evidence to establish that her low back injury was sustained in the performance of duty and was causally related to factors of her federal employment-related duties. At the time the Office issued its December 31, 1997 decision denying appellant's claim, the Office had not received any medical evidence. The Office therefore properly denied appellant's claim.<sup>7</sup>

The decision of the Office of Workers' Compensation Programs dated December 31, 1997 is hereby affirmed.

Dated, Washington, D.C.  
December 14, 1999

Michael J. Walsh  
Chairman

Willie T.C. Thomas  
Alternate Member

A. Peter Kanjorski  
Alternate Member

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<sup>7</sup> The Board notes that appellant submitted medical evidence five days after her December 31, 1997 Office decision was issued and at no time requested reconsideration before the Office to have such evidence reviewed. The Board also notes that appellant appealed her December 31, 1997 decision to the Board thereby giving the Board no authority to review the new evidence as the Board cannot review any new or additional evidence not before the Office at the time the Office rendered its final decision; *see* 20 C.F.R. § 501.2(c). Appellant may resubmit this evidence to the Jacksonville, Florida district office with a formal written request for reconsideration.