

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JERROLYN D. CASTILLO and DEPARTMENT OF VETERANS AFFAIRS,
MEDICAL CENTER, Albuquerque, N.M.

*Docket No. 97-1729; Submitted on the Record;
Issued March 19, 1999*

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
BRADLEY T. KNOTT

The issue is whether appellant established that her medical condition was causally related to her September 27, 1996 accepted injury.

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 December 5, 1996 decision, the Office accepted that appellant sustained low back strain and left hip strain in the performance of duty on September 26, 1996. 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 and identified the diagnosed condition of low back strain and left hip strain, the Office indicated that the claim was not accepted for the purposes of compensation because appellant first sought

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 (1989).

medical care on October 2, 1996 and again on October 16, 1996 but that neither medical report from these dates noted appellant's lifting incident at work as the cause of her condition. The Office noted that an October 30, 1996 medical report noted that appellant remembered pain one day while lifting a patient. Further, on its Form CA-800, the FECA nonfatal summary form, the Office noted "left hip" in the section for "conditions caused by injury" but noted that appellant's claim was formally disapproved for failure to establish "fact of injury." It is not clear, therefore, why the Office noted that a left hip injury occurred and accepted left hip and low back injuries in the performance of duty while denying compensation benefits on the grounds that appellant failed to establish fact of injury.

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.

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 2.1400.2(c) (March 1997).

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

The December 5, 1996 decision of the Office of Workers' Compensation Programs is set aside and the case remanded for further action consistent with this decision.

Dated, Washington, D.C.
March 19, 1999

David S. Gerson
Member

Willie T.C. Thomas
Alternate Member

Bradley T. Knott
Alternate Member