

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of GEORGE M. TRAVERS and DEPARTMENT OF THE ARMY,
Fort Belvoir, VA

*Docket No. 99-177; Submitted on the Record;
Issued April 3, 2000*

DECISION and ORDER

Before DAVID S. GERSON, BRADLEY T. KNOTT,
A. PETER KANJORSKI

The issue is whether appellant met his burden of proof to establish that he sustained an injury in the performance of duty.

Appellant, a 53 year-old meat cutter, filed a claim for benefits based on traumatic injury on June 9, 1998, alleging that he sustained a headache, dizziness and high blood pressure when he was assaulted by a coworker on May 13, 1998. In support of his claim, appellant submitted a May 29, 1998 treatment report from Kaiser Permanente Insurance. This report stated that appellant had been treated at the Kaiser Permanente Medical Center on May 25, 1998, that he had been ill and unable to work from May 25 to May 29, 1998, and that he might be able to return to work on May 30, 1998. The report contains an illegible signature dated May 25, 1998.

In a letter to appellant, dated July 14, 1998, the Office of Workers' Compensation Programs requested that appellant submit additional information in support of his claim, including a medical report, opinion and diagnosis from a physician, supported by medical reasons, as to how the reported work incident caused or aggravated the claimed injury. The Office informed the employee that he had 30 days to submit the requested information.

By decision dated August 20, 1998, the Office denied appellant's claim, finding that he failed to submit medical evidence sufficient to establish that he sustained the claimed injury in the performance of duty.

The Board finds that appellant did not meet his burden of proof to establish that he sustained an injury in the performance of duty.

An employee seeking benefits under the Federal Employees' Compensation Act¹ has the burden of establishing that the essential elements of his or her claim including the fact that the

¹ 5 U.S.C. §§ 8101-8193.

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 and every 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 must first be determined whether a “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.⁴ 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.⁵ The medical evidence required to establish causal relationship is usually rationalized medical evidence. Rationalized medical opinion 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.⁶

In the present case, it is uncontested that appellant experienced the employment incident at the time, place and in the manner alleged. However, the question of whether the employment incident caused a personal injury generally can be established only by medical evidence,⁷ and appellant has not submitted rationalized, probative medical evidence to establish that the employment incident on May 13, 1998 caused a personal injury and resultant disability.

In the present case, the only medical evidence appellant submitted was the May 29, 1998 treatment report, which merely indicates dates of treatment and the date appellant was expected to return to work. This report does not provide a probative, rationalized medical opinion sufficient to demonstrate that appellant’s May 13, 1998 employment incident caused a personal injury or resultant disability. Causal relationship must be established by rationalized medical opinion evidence, and appellant failed to submit such evidence in the present case. Appellant did not provide a medical opinion to sufficiently describe or explain the medical process through which the May 13, 1998 work accident would have been competent to cause the claimed injury. Thus, the Office’s decision is affirmed.

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

³ *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁴ *John J. Carlone*, 41 ECAB 354 (1989).

⁵ *Id.* For a definition of the term “injury,” see 20 C.F.R. § 10.5(a)(14).

⁶ *Id.*

⁷ See *John J. Carlone*, *supra* note 4.

The August 20, 1998 decision of the Office of Workers' Compensation Programs is affirmed.⁸

Dated, Washington, D.C.
April 3, 2000

David S. Gerson
Member

Bradley T. Knott
Alternate Member

A. Peter Kanjorski
Alternate Member

⁸ In a letter accompanying his appeal to the Board, appellant stated that he wished to submit additional medical evidence in support of his claim. The Board does not have jurisdiction to consider any new evidence; however, appellant may submit such evidence in a request for review to the Office pursuant to 5 U.S.C. § 8128. 20 C.F.R. § 501(c).