

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of TERRY S. HOYT and DEPARTMENT OF VETERANS AFFAIRS,
HARRY S. TRUMAN MEMORIAL VA HOSPITAL, Columbia, MO

*Docket No. 99-1544; Submitted on the Record;
Issued August 17, 2000*

DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,
MICHAEL E. GROOM

The issue is whether appellant met her burden of proof in establishing that she sustained an injury in the performance of duty.

On November 20, 1998 appellant, then a 62-year-old physician, filed a notice of traumatic injury and claim for compensation (Form CA-1) alleging that her current condition of clotting of the long saphenous vein in her left leg and deep venous thrombosis in 1998 was causally related to an incident of September 14, 1988 when her left thigh was struck by a piece of equipment. She advised that she did not lose any time from the incident of 1988, but had reported the incident to employee health as the long saphenous vein had clotted under the point of impact the following day. Appellant stopped work on May 25, 1998 and returned to work on June 4, 1998.

In a letter dated December 17, 1998, the Office of Workers' Compensation Programs afforded appellant the opportunity to provide additional supportive evidence.

Appellant forwarded a copy of vascular disease of the limbs from Cecil's Textbook of Medicine along with a December 11, 1998 attending physician's report, Form CA-20, from Dr. Curtis Mace, an internist. He indicated a prior thrombosis in appellant's right leg and diagnosed a recent deep vein thrombosis in her left leg by appellant's report after a period of stasis. Dr. Mace opined that he was unclear of the relationship between appellant's history of injury and the current diagnosis as different legs were involved. He further indicated that he was unable to objectively answer questions regarding causation. Dr. Mace did note, however, that appellant may have a predisposition to deep vein thrombosis due to a questionable protein deficiency.

In a January 22, 1999 decision, the Office denied appellant's claim for compensation benefits finding that the evidence of record failed to establish that an injury was sustained as

alleged. Specifically, the Office found that the medical evidence of record failed to establish that the claimed medical condition or disability was causally related to appellant's employment.

The Board finds that appellant failed to meet her burden of proof in establishing that she sustained an injury in the performance of duty, as alleged.

An employee seeking benefits under the Federal Employees' Compensation Act¹ 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 essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.³

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the employment factors identified by the claimant were the proximate cause of the condition for which compensation is claimed or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant. The medical evidence required to establish causal relationship, generally, is rationalized medical opinion 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.⁴

Although there is some conflict as to whether appellant's original injury in 1988 involved her right or left leg,⁵ the Board finds that she has submitted insufficient medical evidence to establish that her claimed condition is causally related to employment factors or conditions. As

¹ 5 U.S.C. §§ 8101-8193.

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

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

⁴ *Id.*

⁵ On her CA-1 form, appellant asserted that the original injury involved her left thigh which resulted in a left deep venous thrombosis in 1998. On January 22, 1999 the Office noted that employee changed original CA-1 to read "left" instead of right thigh. In her appeal before the Board, appellant asserted that she originally injured her right leg and suffered a blood clot in her right leg while recuperating from eye surgery.

noted above, to establish that an injury was sustained in the performance of duty, appellant must submit rationalized medical evidence addressing how specific work factors caused or aggravated the claimed condition. The mere fact that a disease or condition develops during a period of federal employment does not establish a work-related condition.⁶ In this case, appellant has not submitted medical evidence supporting a causal relationship between her claimed condition and her employment. Dr. Mace diagnosed a deep vein thrombosis in appellant's left leg "by appellant's report," but stated that he was unable to objectively answer whether appellant's condition was caused or aggravated by her employment in part because of the fact that different legs were involved, as he noted a prior thrombosis in the right leg. He failed to identify specific work factors which caused or aggravated appellant's condition or provide a reasoned medical opinion addressing the issue of causality. Further, the Board has held that newspaper clippings, medical texts and excerpts from publications are of no evidentiary value in establishing the causal relationship between a claimed condition and an employee's federal employment as such materials are of general application and are not determinative of whether the specific condition claimed is related to the particular employment factors alleged by the employee.⁷ Therefore, the text copied from Cecil's Textbook of Medicine is of diminished probative value. The Office advised appellant of the type of evidence needed to establish her claim; however, she failed to submit such evidence. The Office, therefore, properly denied appellant's claim for compensation.

The January 22, 1999 Office of Workers' Compensation Programs' decision is affirmed.

Dated, Washington, D.C.
August 17, 2000

Michael J. Walsh
Chairman

David S. Gerson
Member

Michael E. Groom
Alternate Member

⁶ See *Francisco D. Regoliano*, 16 ECAB 338, 340 (1965).

⁷ *William C. Bush*, 40 ECAB 1064, 1075 (1989).