U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ROBERT McGLOTHLIN and DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION, Melbourne, FL

Docket No. 00-2256 Submitted on the Record;
Issued July 10, 2001

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
A. PETER KANJORSKI

The issue is whether appellant has met his burden of proof to establish that he sustained an injury in the performance of duty on February 24, 2000.

On February 25, 2000 appellant, a 37-year-old electronics technician, filed a notice of traumatic injury and claim for continuation of pay/compensation (Form CA-1). He alleged that on February 24, 2000 he was involved in a motor vehicle accident. Appellant alleged that he was driving a van when he began to feel uncomfortable and pulled off to the side of the road. He indicated that the vehicle's brakes locked up and he slid into a gate.

An authorization for examination and or treatment (Form CA-16) was completed by the employing establishment on February 25, 2000.

On March 13, 2000 the Office of Workers' Compensation Programs requested that appellant submit additional factual and medical information. Appellant was allotted 30 days to submit the requested evidence.

In a March 30, 2000 statement, appellant indicated that while driving south on U.S.1 in the right hand lane, he began to have a warm uncomfortable feeling. He indicated that he pulled off to the side of the road when the mishap occurred. Appellant added that he believed a car changing lanes close in front contributed to the accident. He indicated that he had "no injuries." Appellant also stated that he had a history of "minor petit mal epilepsy;" however, it was well controlled for approximately three years.

In a February 24, 2000 unsigned emergency room report, Dr. Ronald Gilroy, Board-certified in emergency medicine, noted appellant's history. Dr. Gilroy indicated that appellant's chief complaint was "seizure possibly" and "motor-vehicle accident." He described the events wherein appellant was in his vehicle, wearing a seatbelt, when he apparently went off the road, lost control of the vehicle, went through some trees and hit a wall. Dr. Gilroy noted that

appellant complained of pain in the saline lock site with no other complaints. He also noted that appellant was not sure if he had a seizure but rather was run off the road by somebody. Dr. Gilroy indicated there was no evidence of acute head trauma, although appellant's chest revealed evidence of minimal abrasion in the lower chest wall. The emergency department assessment was motor vehicle accident and history of seizures. He did not provide a diagnosis.

By letter dated April 19, 2000, the Office issued a decision denying appellant's claim for failure to submit sufficient medical evidence necessary to support his claim. The Office stated: "The initial evidence of file supported that you actually experienced the claimed event, pulling your van off to the side of the road because you felt 'uncomfortable' and sliding into a gate after the brakes locked. However, the evidence did not establish that a condition was diagnosed concerning this. Therefore, an injury within the meaning of the Federal Employees' Compensation Act was not demonstrated."

The Board finds that appellant has not met his burden of proof to establish that he sustained an injury in the performance of duty on February 24, 2000.

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 filed within the applicable time limitation 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 is causally related to the employment injury."[1] These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or occupational disease.[2]

In a traumatic injury case, in order to determine whether a federal employee actually sustained an injury in the performance of duty, it first must 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.[3] 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.[4] 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

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

[2] *Daniel J. Overfield*, 42 ECAB 718, 721 (1991).

[3] *John J. Carlone*, 41 ECAB 354 (1989).

[4] *Id.* For a definition of the term "injury" see 20 C.F.R. § 10.5(a)(14).

the relationship between the diagnosed condition and the specific employment factors identified by the claimant.[5]

In the present case, the Office found that the February 24, 2000 incident occurred at the time, place and in the manner alleged.

However, the Board finds that appellant has not established that the February 24, 2000 employment incident resulted in an injury. The question of whether an employment incident caused a personal injury generally can only be established by medical evidence[6] and appellant has not submitted rationalized, probative medical evidence to establish that the incident on February 24, 2000 caused a personal injury and resultant disability.

In the present case, the only medical evidence bearing on causal relationship is the unsigned February 24, 2000 emergency room report from Dr. Gilroy, in which he noted that appellant's chief complaint was possibly a seizure and a motor vehicle accident. The Board has consistently held that unsigned medical reports are of no probative value.[7] Consequently, appellant did not provide a probative, rationalized medical opinion indicating that he sustained a personal injury causally related to factors of his federal employment. As appellant has not submitted the requisite medical evidence needed to establish his claim, he has failed to meet his burden of proof. For the above-noted reasons, appellant has not established that he sustained an injury in the performance of duty on February 24, 2000.

The Board notes that the record contains a properly completed Form CA-16 (authorization for examination and/or treatment) authorizing necessary medical treatment from Holmes Regional Medical Center. The issuance of an Office Form CA-16 creates a contractual obligation to pay the cost for the authorized medical examination regardless of the action taken on the claim.[8]

[5] *See supra* note 3.

[6] *Id.*

[7] *See Merton J. Sills*, 39 ECAB 572 (1988).

[8] *See Danita E. Lindsey*, 40 ECAB 450 (1989).

The April 19, 2000 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, DC
July 10, 2001

David S. Gerson
Member

Willie T.C. Thomas
Member

A. Peter Kanjorski
Alternate Member