

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of CLARISSA JOHNSON and DEPARTMENT OF VETERANS AFFAIRS,
VETERANS ADMINISTRATION MEDICAL CENTER, Long Beach, CA

*Docket No. 00-2607; Submitted on the Record;
Issued July 3, 2001*

DECISION and ORDER

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

The issue is whether appellant has met her burden of proof in establishing that she sustained an injury causally related to her federal employment.

On February 14, 2000 appellant, then a 47-year-old nurse assistant, filed a notice of traumatic injury claiming that on February 8, 2000, she had "pain in left arm pit" caused by "turning patient every two hours." She submitted an accident report and progress notes to support her claim. The accident report indicated that appellant had stated "was not sure how she sustained the pain but she claims it is probably from turning patient." The progress notes, dated February 14, 2000, indicated: "[Appellant] states had been turning a patient; when she got home noted arm pain."¹

By letter dated March 6, 2000, the Office of Workers' Compensation Programs requested that appellant provide additional factual and medical information to support her claim.

On March 20, 2000 the Office received two forms from Kaiser Permanente dated February 9 and March 8, 2000 and documentation of medical impairment forms, also dated February 9 and March 8, 2000. The February 9, 2000 reports diagnosed appellant with "tendonitis/synovitis/bursitis/shoulder impingement" and indicated that appellant was to be off work for a period of three days beginning on February 9, 2000. The remarks section only indicated "[left] arm pit." In the March 8, 2000 report from Dr. Diane Kim, a Board-certified internist, she indicated: "[Appellant] can return to work without any limitations; left arm/shoulder are fine." The Office also received a letter dated March 13, 2000 from appellant's employer controverting her claim.

By decision dated April 6, 2000, the Office denied appellant's claim for compensation since the evidence submitted did not establish fact of injury.

¹ The physician's signature is illegible.

The Board finds that appellant has not met her burden of proof in establishing that she sustained an injury causally related to her federal employment.

An employee seeking benefits under the Federal Employees' Compensation Act² has the burden of establishing the essential elements of 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.³ These are the essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁴

To determine whether an 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 she actually experienced the employment incident at the time, place and in the manner alleged.⁵ 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.⁶ An employee may establish that an injury occurred in the performance of duty as alleged but fail to establish that his or her disability and/or a specific condition for which compensation is claimed are causally related to the injury.⁷

The medical evidence required to establish a causal relationship 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.⁸

In this case, the Office, in its April 6, 2000 decision, accepted that appellant actually experienced the claimed factor of employment.

² 5 U.S.C. §§ 8101-8193.

³ *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

⁴ *Delores C. Ellyett*, 41 ECAB 992, 994 (1990); *Ruthie M. Evans*, 41 ECAB 416, 423-25 (1990).

⁵ *John J. Carlone*, 41 ECAB 354 (1989).

⁶ *Id.* For a definition of the term "injury," see 20 C.F.R. § 10.5(a)(14).

⁷ As used in the Act, the term "disability" means incapacity because of an injury in employment to earn wages the employee was receiving at the time of the injury, *i.e.*, a physical impairment resulting in loss of wage-earning capacity. *Frazier V. Nichol*, 37 ECAB 528 (1986).

⁸ *Delores C. Ellyett*, 41 ECAB 992, 994 (1990); *Ruthie M. Evans*, 41 ECAB 416, 423-25 (1990).

Appellant did not, however, submit any rationalized medical opinion evidence to support her claim that the incident caused an injury. Appellant only submitted Kaiser Permanente documents which indicated that she was examined on February 9 and March 8, 2000 and that “tendinitis/synovitis/bursitis/shoulder impingement” had been diagnosed. There was no history of injury or physician’s opinion as to the cause of appellant’s condition in the report. In addition, the clinician⁹ who completed the form only placed a “mark” in the box indicating these multiple diagnoses and did not explain which diagnosis applied to appellant. At the time the Office denied appellant’s claim on April 6, 2000, the record did not contain sufficient medical evidence to support appellant’s claim for compensation.¹⁰

The Board finds that appellant has not met her burden of proof in establishing that she sustained an injury causally related to her federal employment since sufficient medical evidence was not received.

The April 6, 2000 decision of the Office of Workers’ Compensation Programs is hereby affirmed.

Dated, Washington, DC
July 3, 2001

David S. Gerson
Member

Willie T.C. Thomas
Member

Bradley T. Knott
Alternate Member

⁹ The Board notes that this may not be a physician’s signature.

¹⁰ The Office received additional evidence on April 14 and 27, 2000. Since this evidence was received after the Office’s April 6, 2000 decision, it may not be considered by the Board on appeal. 20 C.F.R. § 501.2(c).