U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of RENEE C. BODE and U.S. POSTAL SERVICE,
POST OFFICE, Rapid City, SD

Docket No. 01-690; Submitted on the Record;
Issued October 26, 2001

DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS,
MICHAEL E. GROOM

The issues are: (1) whether appellant has met her burden of proof in establishing that she sustained an injury in the performance of duty; and (2) whether the Office of Workers' Compensation Programs properly denied reimbursement of medical treatment.

Appellant, a 56-year-old distribution clerk, filed a notice of traumatic injury alleging that on October 10, 2000 she sustained pain in her right ear after a customer continued to press the service buzzer. The Office requested additional information on October 30, 2000 and denied appellant's claim by decision dated December 21, 2000. The Office stated that medical treatment at the Office's expense was not authorized and "prior authorization, if any, is hereby terminated." On appeal, appellant alleged that the employing establishment directed her to go to the medical unit and that personnel instructed her to undergo an audiogram. Appellant stated, "You cannot require an employee to seek medical attention at your chosen medical facility and then not cover the costs of that employment requirement."

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

In order to determine whether an employee actually sustained an injury in the performance of duty, the Office begins with an analysis of whether fact of injury has been established. Generally, fact of injury consists of two components which must be considered in conjunction with one another. The first component to be established is that the employee actually experienced the employment incident which is alleged to have occurred.[1] The second component is whether the employment incident caused a personal injury and generally can be established only by medical evidence. To establish a causal relationship between the condition, as well as any attendant disability claimed and the employment event or incident, the employee must submit rationalized medical opinion evidence, based on a complete factual and medical

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

background, supporting such a causal relationship.[2] 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. The weight of the medical evidence is determined by its reliability, its probative value, its convincing quality, the care of analysis manifested and the medical rationale expressed in support of the physician's opinion.[3]

In this case, the Office accepted that the employment incident occurred as alleged. However, the Office found that appellant had not submitted sufficient medical evidence to establish that she sustained an injury as a result of this incident.

Appellant submitted a duty status report, Form CA-17, dated October 12, 2000. The physician indicated that appellant provided a history of prolonged sounding of a loud buzzer in the right ear. He reported no obvious clinical findings and stated that there was an audiogram pending. The physician released appellant to return to work on October 11, 2000. Appellant also submitted a note dated October 11, 2000 indicating that she had exposure to a loud noise which caused severe pain in her right ear at work, four days previously. The note indicated that appellant should undergo an audiogram.[4]

These reports do not support appellant's claim for an injury to her right ear and are not sufficient to meet her burden of proof. As there is no other medical evidence in the record, the Board finds that the Office properly denied appellant's claim.

The Board further finds that the case is not in posture for decision in regard to the issue of reimbursement of medical expenses.

Appellant alleged that she sustained an injury to her right ear in the performance of duty. Appellant alleged that her supervisors instructed her to report to the employing establishment health clinic were she was examined and instructed to undergo further testing. Appellant and the employing establishment indicated that appellant underwent this testing although there is no report in the record.

[2] *See* 20 C.F.R. § 10.110(a); *John M. Tornello*, 35 ECAB 234 (1983).

[3] *James Mack*, 43 ECAB 321 (1991).

[4] This note is initialed by a nurse practitioner, not a physician for the purposes of the Federal Employees' Compensation Act. 5 U.S.C. §§ 8101-8193, § 8101(2). However, there is an additional written initial on the note indicating that a physician may have endorsed the findings.

Ordinarily, when an employee sustains an alleged job-related injury which may require medical treatment, the designated agency official shall promptly authorize such treatment by giving the employee a properly executed CA-16 within four hours.[5]

However, in cases of emergency or cases involving unusual circumstances the Office may, in the exercise of its discretion, authorize treatment other than by a Form CA-16.[6]

In this case, the employing establishment issued a Form CA-17 to HealthSouth by entering the name and address on the reverse of the form and appellant sought treatment on October 12, 2000, two days after the alleged employment injury.

The Board notes that the Office has not determined whether the CA-17 was issued under an "emergency" or "unusual circumstances" which would require the Office to exercise its discretion on whether to authorize payment of medical treatment other than by a properly completed Form CA-16.[7]

The case will be remanded to the Office to make a determination of whether the Form CA-17 authorized appellant's medical treatment. Following such determination, the Office shall issue an appropriate decision with respect to reimbursement for services rendered.

The December 21, 2000 decision of the Office of Workers' Compensation Programs is affirmed in finding that appellant did not meet her burden of proof in establish her claim; however, with regard to the issue of reimbursement of medical expenses, the case is set aside and remanded to the Office for further development in conformance with this decision.

Dated, Washington, DC
October 26, 2001

Michael J. Walsh
Chairman

Willie T.C. Thomas
Member

Michael E. Groom
Alternate Member

[5] 20 C.F.R. § 10.300.

[6] 20 C.F.R. § 10.304.

[7] *Anthony Centu*, 40 ECAB 563, 566-68 (1989).