U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of MATTHEW P. CALVERT and DEPARTMENT OF JUSTICE, IMMIGRATION & NATURALIZATION SERVICE, U.S. BORDER PATROL, Los Fresnos, TX

Docket No. 02-926; Submitted on the Record; Issued August 22, 2002

DECISION and ORDER

Before COLLEEN DUFFY KIKO, MICHAEL E. GROOM, A. PETER KANJORSKI

The issue is whether appellant has established that he sustained an injury in the performance of duty.

The Board has duly reviewed the case record in this appeal and finds that appellant has failed to establish that he sustained an injury in the performance of duty.

On February 28, 2001 appellant, then a 28-year-old border patrol agent, filed a traumatic injury claim alleging that on February 25, 2001 he suffered an allergic reaction to a possible insect bite while working. Appellant's claim was accompanied by medical evidence.

By letters dated March 30, 2001, the Office of Workers' Compensation Programs advised appellant that the evidence submitted was insufficient to establish his claim. The Office requested that appellant submit additional factual and medical evidence supportive of his claim. In response, appellant submitted medical and factual evidence on April 2, 2001.

In an April 20, 2001 decision, the Office found the evidence of record insufficient to establish that appellant sustained an injury in the performance of duty. In an undated letter, appellant requested reconsideration of the Office's decision accompanied by factual and medical evidence.

By decision dated January 10, 2002, the Office denied appellant's request for modification based on a merit review of the claim.

An employee seeking benefits under the Federal Employees' Compensation Act[1] has the burden of establishing the essential elements of his or her claim, including the fact that an injury was sustained in the performance of duty as alleged and that any disability and/or specific

[1] 5 U.S.C. §§ 8101-8193.

condition for which compensation is claimed are causally related to the employment injury.[2] The medical evidence required to establish a causal relationship, generally, is rationalized medical opinion evidence.[3]

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] The mere fact that a condition manifests itself during a period of employment does not raise an inference that there is a causal relationship between the two. Neither the fact that the condition became apparent during a period of employment, nor the belief of appellant that the condition was caused by or aggravated by employment conditions is sufficient to establish causal relation.[5]

In this case, appellant alleged that he suffered from an allergic reaction to an insect bite while in the performance of duty. The Office found that appellant did not submit sufficient medical evidence explaining how his medical condition was caused by his federal employment.

Appellant submitted medical evidence in support of his claim, but the only medical evidence of record that addresses the critical issue in this case, whether appellant sustained an injury caused by the February 25, 2001 incident is a February 25, 2001 report entitled authorization for examination and/or treatment (Form CA-16) of Dr. Jesus Nunez-Avelar, Board-certified in emergency medicine, and a May 3, 2001 report of Linda S. McCampbell, a family nurse practitioner.

In his February 25, 2001 report, Dr. Nunez-Avelar noted the date of injury as February 25, 2001 and his findings of a body rash. He diagnosed an allergic reaction and indicated that appellant's condition was not caused or aggravated by an employment activity by placing a check mark in the box marked "no." Dr. Nunez-Avelar did not opine that appellant's allergic reaction was caused by the February 25, 2001 incident.

In her May 3, 2001 report, Ms. McCampbell indicated that appellant had a long-standing history of allergy to bees, ants and spiders. She further indicated that on February 25, 2001 appellant was treated in the hospital emergency room after a reported history of being bitten by ants while at work in the field. Ms. McCampbell stated that sequentially appellant developed a rash and rapid heartbeats, and he was treated for an acute allergic reaction. Although Ms. McCampbell noted that ants bit appellant while he was working on February 25, 2001, her

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[2] *Jerry D. Osterman*, 46 ECAB 500 (1995); *see also Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

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

[4] *See Victor J. Woodhams, supra* note 2 at 351-52; *William E. Enright*, 31 ECAB 426, 430 (1980).

[5] *Manuel Garcia*, 37 ECAB 767, 773 (1986); *Juanita C. Rogers*, 34 ECAB 544, 546 (1983).

report is of little probative value regarding a causal relationship between appellant's allergic reaction and his federal employment. A nurse practitioner is not a physician under the Act.[6]

Inasmuch as appellant has failed to submit any rationalized medical evidence establishing that he sustained an injury causally related to the February 25, 2001 incident, the Board finds that appellant has failed to discharge his burden of proof in this case.

The January 10, 2002 and April 20, 2001 decisions of the Office of Workers' Compensation Programs are hereby affirmed.

Dated, Washington, DC
August 22, 2002

Colleen Duffy Kiko
Member

Michael E. Groom
Alternate Member

A. Peter Kanjorski
Alternate Member

[6] *See Bertha L. Arnold,* 38 ECAB 282 (1986); 5 U.S.C. § 8101(2).