

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JACQUELINE M. BOHANNON and DEPARTMENT OF THE AIR FORCE,
WRIGHT-PATTERSON AIR FORCE BASE, OH

*Docket No. 02-376; Submitted on the Record;
Issued June 26, 2002*

DECISION and ORDER

Before ALEC J. KOROMILAS, WILLIE T.C. THOMAS,
MICHAEL E. GROOM

The issue is whether appellant sustained an injury to her back on October 3, 2000 in the performance of duty.

The Board finds that appellant failed to establish that she sustained a back injury on October 3, 2000 in the performance of duty.

An award of compensation may not be based on surmise, conjecture, speculation or appellant's belief of causal relationship.¹ Appellant has the burden of establishing by the weight of the reliable, probative and substantial evidence that she sustained an injury in the performance of duty and that her disability was caused or aggravated by her employment.² As part of this burden, a claimant must present rationalized medical opinion evidence, based on a complete factual and medical background, showing causal relationship.³ The mere manifestation of a condition during a period of employment does not raise an inference of causal relationship between the condition and the employment.⁴ Neither the fact that the condition became apparent during a period of employment nor appellant's belief that the employment caused or aggravated her condition is sufficient to establish causal relationship.⁵

On January 22, 2001 appellant, then a 36-year-old accounting technician, filed a traumatic injury claim alleging that on October 3, 2000 she injured her back when she slipped on a step and fell awkwardly.

¹ See *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

² See *Daniel R. Hickman*, 34 ECAB 1220, 1223 (1983).

³ See *Mary J. Briggs*, 37 ECAB 578, 581 (1986); *Joseph T. Gulla*, 36 ECAB 516, 519 (1985).

⁴ See *Edward E. Olson*, 35 ECAB 1099, 1103 (1984).

⁵ *Id.*

By decision dated December 3, 2001, the Office of Workers' Compensation Programs denied appellant's claim on the grounds that the medical evidence of record failed to establish that she sustained an injury in the performance of duty on October 3, 2000, as alleged.⁶

In a form report dated January 22, 2001, an employing establishment physician diagnosed a possible left-sided cervical radiculopathy and muscle pain bilaterally in the trapezius muscle. Appellant gave him a history of slipping on a step on an unspecified date in October 2000. However, the physician did not relate appellant's condition to the incident at work on October 3, 2000. Therefore, this report does not establish that appellant sustained a work-related back injury on that date.

In a form report dated February 21, 2001, Dr. David F. Hauser, a chiropractor, diagnosed a post-traumatic C5 subluxation with myalgia and possible radiculopathy. He checked the block marked "yes" indicating that the condition was causally related to the work incident in October 2000. Under section 8101(2) of the Act, chiropractors are only considered physicians, and their reports considered medical evidence, to the extent that they treat spinal subluxations as demonstrated by x-ray to exist.⁷ Dr Hauser did not indicate in his reports that his findings of subluxations were demonstrated by x-rays to exist and x-ray reports dated February 6, 2001 do not show a subluxation.⁸ Therefore, Dr. Hauser's report has no probative value on the issue of whether appellant sustained an employment-related back injury.

In an undated narrative report received by the Office on February 26, 2001, Dr. Hauser stated that appellant was first seen in his office on February 6, 2001 for neck pain and pain and numbness in the left shoulder and arm with a history of falling off a step in October 2000 and landing on her left shoulder. Dr. Hauser provided findings on examination and diagnosed a subluxation at C5 with associated paraspinal myalgia and brachial paresthesias. He stated, "If the history given is correct, it is my opinion that [appellant] is presenting complaints directly related to the work injury that occurred late 2000." However, for the reasons noted above, Dr. Hauser is not a physician under the Act in this case and his report is of no probative value.

⁶ This record contains additional evidence that was not before the Office at the time it issued its December 3, 2001 decision. The Board has no jurisdiction to review this evidence for the first time on appeal; *see* 20 C.F.R. § 501.2(c); *Robert D. Clark*, 48 ECAB 422, 428 (1997).

⁷ 5 U.S.C. § 8101(2); *see Jack B. Wood*, 40 ECAB 95, 109 (1988).

⁸ Radiology reports dated February 6, 2001 do not indicate that x-rays of appellant's cervical spine revealed any subluxation, just moderate degenerative changes at C5-6 and osteoarthritis. The case record contains evidence received after the Office's December 3, 2001 decision. The Board may not review this evidence for the first time on appeal. *See* 20 C.F.R. § 501.2(c).

The decision of the Office of Workers' Compensation Programs dated December 3, 2001 is affirmed.

Dated, Washington, DC
June 26, 2002

Alec J. Koromilas
Member

Willie T.C. Thomas
Alternate Member

Michael E. Groom
Alternate Member