

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of DIANA R. ZILIAK and U.S. POSTAL SERVICE,
POST OFFICE, Evansville, IN

*Docket No. 03-939; Submitted on the Record;
Issued August 20, 2003*

DECISION and ORDER

Before ALEC J. KOROMILAS, COLLEEN DUFFY KIKO,
DAVID S. GERSON

The issue is whether appellant has established that she sustained an injury on August 7, 2001 causally related to factors of her employment.

On January 8, 2002 appellant, a 53-year-old rural letter carrier, filed a traumatic injury claim, alleging that she sustained an injury on August 7, 2001 when she was involved in a motor vehicle accident while in the performance of duty. Appellant advised that her whole body was shaken and that she had pain in her neck, shoulder and left arm with her neck pain intensifying.

Accompanying appellant's claim was an accident report, a Form CA-17, dated January 9, 2002, in which Dr. Joseph F. Waling, a Board-certified physiatrist, advised that appellant had no restrictions to her physical activity, and a note dated January 4, 2002 in which Dr. Waling advised that appellant's pain was secondary to the motor vehicle accident of August 2001.

By letter dated January 30, 2002, the Office of Workers' Compensation Programs advised appellant that the initial information submitted was insufficient to establish her claim and that she should submit a comprehensive medical report from her treating physician describing her symptoms and the medical reasons for her condition and providing an opinion as to whether her claimed conditions were causally related to the motor vehicle accident of August 7, 2001. No new evidence was submitted.

By decision dated March 4, 2002, the Office denied appellant's claim, finding that, while the August 7, 2001 incident occurred, appellant had failed to establish that her condition was causally related to the motor vehicle accident. The Office stated that it had requested additional factual and medical evidence by letter dated January 30, 2002, but that appellant had failed to respond to this request.

The Board finds that appellant has failed to establish that she sustained an injury causally related to the August 7, 2001 motor vehicle accident.

An employee seeking benefits under the Federal Employees' Compensation Act¹ has the burden of establishing that 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 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.² These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.³

To determine whether a federal 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 he or she actually experienced the employment incident at the time, place and in the manner alleged.⁴ 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.⁵ The medical evidence required to establish causal relationship is usually rationalized medical 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.⁶

In this case, it is uncontested that appellant experienced the employment incident, a motor vehicle accident, at the time, place and in the manner alleged. However, the question of whether an employment incident caused injury is generally established by medical evidence⁷ and appellant has not submitted rationalized probative medical evidence to establish that the employment incident on August 7, 2001 caused a personal injury and resultant disability. In this regard, the Board has held that 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.⁸ Neither the fact that the condition became apparent during a period of employment nor the belief that the condition was caused or aggravated by employment factors or incidents is sufficient to

¹ 5 U.S.C. §§ 8101 *et seq.*

² *Joe D. Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

³ *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁴ *John J. Carlone*, 41 ECAB 354 (1989).

⁵ *Id.* For a definition of the term "injury," see 20 C.F.R. § 10.5(a)(14).

⁶ *Id.*

⁷ See *John J. Carlone*, *supra* note 4.

⁸ See *Joe T. Williams*, 44 ECAB 518, 521 (1993).

establish causal relationship.⁹ Causal relationship must be established by rationalized medical opinion evidence and appellant failed to submit such evidence in the present case.

The medical evidence in the instant case includes a January 4, 2002 medical note in which Dr. Waling, a Board-certified physiatrist, wrote: "Please excuse from work today. Also patient's pain is secondary to MVA [motor vehicle accident] August 2001." This note does not provide a diagnosis or what injury was sustained as a result of the motor vehicle accident and is, therefore, insufficient to establish causal relationship. A January 9, 2002 duty status report from Dr. Waling provided a diagnosis of "cervicalgia, pain in neck" with a release to full duty with no restrictions. This report, too, is of insufficient probative value to establish fact of injury because it does not provide a diagnosis other than neck pain and does not contain a reasoned opinion regarding how the August 7, 2001 accident caused the condition.

The Office advised appellant of the type of evidence required to establish her case in its letter of January 30, 2002. Appellant, however, failed to provide a medical opinion to describe or explain the medical process through which the August 7, 2001 motor vehicle accident caused the claimed condition. Accordingly, as appellant failed to submit any rationalized medical evidence that related any condition to employment factors, including the August 7, 2001 motor vehicle accident, she did not establish that she sustained an employment-related injury.¹⁰

The decision of the Office of Workers' Compensation Programs dated March 4, 2002 is affirmed.

Dated, Washington, DC
August 20, 2003

Alec J. Koromilas
Chairman

Colleen Duffy Kiko
Member

David S. Gerson
Alternate Member

⁹ *Id.*

¹⁰ The Board notes that appellant submitted additional evidence to the Office after the decision dated March 4, 2002 and with her appeal to the Board. However, the jurisdiction of the Board is limited to the evidence that was before the Office at the time it issued its final decision; *see* 20 C.F.R. § 501.2(c). This decision does not preclude appellant from submitting additional evidence to the Office along with an appropriate request for reconsideration pursuant to 5 U.S.C. § 8128(a).