U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of DAVID A. GLAZE and DEPARTMENT OF JUSTICE, IMMIGRATION & NATURALIZATION SERVICE, San Diego, CA

Docket No. 02-1807; Submitted on the Record;
Issued February 24, 2003

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS, MICHAEL E. GROOM

The issue is whether appellant has met his burden of proof in establishing that he developed a wrist condition while in the performance of duty.

On April 5, 2001 appellant, then a 27-year-old student aide, filed a claim for compensation alleging that he sustained a wrist condition when his automobile collided with another motorist while in the performance of duty. He did not stop work.

By letter dated January 28, 2002, the Office of Workers' Compensation Programs requested additional medical evidence from appellant, stating that the initial information submitted was insufficient to establish an injury. The Office advised him of the type of medical evidence needed to establish his claim.

In response to the Office's request, appellant submitted a statement from his supervisor and a narrative statement. The supervisor indicated that appellant was in an automobile accident while on the way to work. She noted that the accident was reported to her the same day of occurrence, however, there were no witnesses. The supervisor noted that appellant was a temporary employee and was driving a government vehicle at the time of the accident. She indicated that he was in the performance of duty. Appellant's statement indicated the same information as provided by his supervisor.

On March 6, 2002 the Office issued a decision and denied appellant's claim for compensation under the Federal Employees' Compensation Act.[1] The Office found that the medical evidence was not sufficient to establish that his medical condition was caused by the employment incident.

[1] 5 U.S.C. §§ 8101-8193.

The Board finds that appellant has not met his burden of proof in establishing that he developed a wrist condition in the performance of duty.

An employee seeking benefits under the Act has the burden of establishing the essential elements of his or him claim including the fact that the individual is an "employee of the United States within the meaning of the Act, that the claim was filed within the applicable time limitation 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 is 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 occupational disease.[3]

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.[4] In some traumatic injury cases, this component can be established by an employee's uncontroverted statement on the Form CA-1.[5] An alleged work incident does not have to be confirmed by eyewitnesses in order to establish that an employee sustained an injury in the performance of duty, but the employee's statement must be consistent with the surrounding facts and circumstances and his subsequent course of action.[6]

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 background, supporting such a causal relationship.[7]

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

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

[3] *Daniel J. Overfield*, 42 ECAB 718, 721 (1991).

[4] *Elaine Pendleton*, *supra* note 2.

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

[6] *Rex A. Lenk*, 35 ECAB 253, 255 (1983).

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

by the claimant. The weight of 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.[8]

It is not disputed that appellant was in a motor vehicle accident while in the performance of duty on April 5, 2001. However, he has not submitted sufficient medical evidence to support that a condition has been diagnosed in connection with the employment factor and that any alleged wrist condition is causally related to the employment incident. On January 28, 2002 the Office advised appellant of the type of medical evidence needed to establish his claim. Appellant did not submit any medical report from an attending physician addressing how specific employment factors may have caused or aggravated his wrist condition. He did not submit a report, which included a rationalized opinion regarding the causal relationship between appellant's wrist condition and the factors of employment believed to have caused or contributed to such condition.[9]

An award of compensation may not be based on surmise, conjecture or speculation. Neither the fact that appellant's condition became apparent during a period of employment nor the belief that his condition was caused, precipitated or aggravated by his employment is sufficient to establish causal relationship.[10] Causal relationships must be established by rationalized medical opinion evidence. Appellant failed to submit such evidence and the Office, therefore, properly denied his claim for compensation.[11]

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

[9] *See Theron J. Barham*, 34 ECAB 1070 (1983) (where the Board found that a vague and unrationalized medical opinion on causal relationship had little probative value).

[10] *See Victor J. Woodhams*, 41 ECAB 345 (1989).

[11] With his appeal, appellant submitted additional evidence. However, the Board may not consider new evidence on appeal; *see* 20 C.F.R. § 501.2(c). This decision does not preclude appellant from submitting new evidence to the Office and request reconsideration pursuant to 5 U.S.C. § 8128(a).

The decision of the Office of Workers' Compensation Programs dated March 6, 2002 is affirmed.

Dated, Washington, DC
February 24, 2003

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member

Michael E. Groom
Alternate Member