

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of DEBORAH L. BEATTY and DEPARTMENT OF VETERANS AFFAIRS,
VETERANS ADMINISTRATION MEDICAL CENTER, Marion, IN

*Docket No. 02-2294; Submitted on the Record;
Issued January 15, 2003*

DECISION and ORDER

Before DAVID S. GERSON, MICHAEL E. GROOM,
A. PETER KANJORSKI

The issue is whether appellant has established that she sustained an injury in the performance of duty on October 3, 2001.

On October 4, 2001 appellant, then a 51-year-old podiatrist, filed a notice of traumatic injury and claim for compensation. She indicated on the claim form that she had sustained injuries in a motor vehicle accident on October 3, 2001. By letter dated May 6, 2002, the Office of Workers' Compensation Programs requested that appellant submit medical evidence regarding her injury.

In a decision dated June 12, 2002, the Office of Workers' Compensation Programs denied the claim on the grounds that the medical evidence was insufficient to establish an injury causally related to the employment incident.

The Board finds that appellant has not met her burden of proof to establish an employment injury on October 3, 2001.

An employee seeking benefits under the Federal Employees' Compensation Act¹ has the burden of establishing that he or she sustained an injury while in the performance of duty.² 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 that is alleged to have occurred. The second component is whether the

¹ 5 U.S.C. §§ 8101-8193.

² *Melinda C. Epperly*, 45 ECAB 196, 198 (1993); *see also* 20 C.F.R. § 10.115.

employment incident caused a personal injury and generally this can be established only by medical evidence.³

Although appellant did not submit a narrative statement describing the October 3, 2001 incident, the Office accepted that appellant was involved in a motor vehicle accident while in the performance of duty on October 3, 2001. In order to establish fact of injury, appellant must submit probative medical evidence on causal relationship between a diagnosed condition and the employment incident. The medical evidence submitted prior to the June 12, 2002 Office decision consists of an employing establishment health clinic form report dated October 3, 2001.⁴ The note provides a history that appellant was a passenger in a van that was sideswiped by another vehicle. The physician noted the results on examination and diagnosed “neck pain, rule out cervical disc injury.” In response to a question as to whether the condition was causally related to employment, the physician checked “yes.”

The treatment note is of insufficient probative value to establish fact of injury. The note does not provide a firm diagnosis other than neck pain. Moreover, there is no reasoned opinion on causal relationship with employment. The Office’s procedure manual recognizes that certain “clear-cut” traumatic injuries, such as a fall from a ladder resulting in a broken leg, may require only an affirmative statement to establish causal relationship.⁵ This is not such a situation and, therefore, appellant must submit a reasoned opinion on causal relationship with the employment incident. It is well established that the checking of a box “yes” in a form report, without additional explanation or rationale, is insufficient to establish causal relationship.⁶ In the absence of a medical report providing a diagnosed condition and a reasoned opinion on causal relationship with the employment incident, the Board finds that appellant did not meet her burden of proof.

³ See *John J. Carlone*, 41 ECAB 354, 357 (1989).

⁴ The record does contain evidence that was received by the Office after June 12, 2002. The Board can review only evidence that was before the Office at the time of its final decision. 20 C.F.R. § 501.2(c).

⁵ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3(d) (June 1995).

⁶ See *Barbara J. Williams*, 40 ECAB 649, 656 (1989).

The decision of the Office of Workers' Compensation Programs dated June 12, 2002 is affirmed.

Dated, Washington, DC
January 15, 2003

David S. Gerson
Alternate Member

Michael E. Groom
Alternate Member

A. Peter Kanjorski
Alternate Member