U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of PARLEE HARPER and U.S. COAST GUARD,
INTEGRATED SUPPORT COMMAND, New Orleans, LA

Docket No. 03-507; Submitted on the Record;
Issued June 27, 2003

DECISION and ORDER

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

The issue is whether appellant has established that she sustained a lower back injury in the performance of duty on January 18, 2002.

Appellant, a 51-year-old military personnel technician, filed a claim for a traumatic injury on January 31, 2002, alleging that she sustained a lower back injury in the performance of duty on January 18, 2002. She stated that the injury occurred when an elevator she was riding moved rapidly from the first floor to the fourth floor, dropped past the third floor, and then went back to the fourth floor.

On February 25, 2002 Dr. John Salmon, a chiropractor, submitted a Form CA-16 to the Office of Workers' Compensation Programs wherein Dr. Salmon diagnosed lumbar strain with muscle spasm. This report did not include a diagnosis of subluxation as demonstrated by x-ray. In the addition, the name and address of the physician was not listed in the authorization section on the first page.

On May 14, 2002 the Office advised appellant that it required additional factual and medical evidence to determine whether she was eligible for compensation benefits. The Office asked appellant to submit a comprehensive medical report from her treating physician describing her symptoms and the medical reasons for her condition, and an opinion as to whether her claimed condition was causally related to her federal employment. The Office requested that appellant submit the additional evidence within 30 days.

Appellant submitted a June 20, 2002 chiropractic report from Dr. Salmon. This report, however, did not include a diagnosis of subluxation as demonstrated by x-ray.

By decision dated June 20, 2002, the Office denied appellant's claim, finding that she failed to establish fact of injury.

The Board finds that appellant has failed to establish that she sustained a lower back injury in the performance of duty on January 18, 2002.

An employee seeking benefits under the Federal Employees' Compensation Act[1] 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 at the time, place and in the manner alleged. However, the question of whether an employment incident caused a personal injury generally can be established by medical evidence,[7] and appellant has not submitted rationalized, probative medical evidence to establish that the employment incident on January 18, 2002 caused a personal injury and resultant disability.

Appellant has not submitted a rationalized, probative medical opinion sufficient to demonstrate that her January 18, 2002 employment incident caused a personal injury or resultant disability. In this regard, the Board has held that the mere fact that a condition manifests itself

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[1] 5 U.S.C. §§ 8101-8193.

[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.

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 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. Appellant submitted the June 20, 2002 chiropractic report and the February 25, 2002 Form CA-16 from Dr. Salmon, a chiropractor. However, section 8101(2) of the Act provides that the term "'physician' ... includes chiropractors only to the extent that their reimbursable services are limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by x-ray to exist."[10] Since Dr. Salmon did not provide any indication that he diagnosed a subluxation as demonstrated by x-ray on either the February 25, 2002 or June 20, 2002 reports, he cannot be considered a physician under the Act. Thus, neither of the reports Dr. Salmon submitted constituted valid medical evidence under the Act.

The Office advised appellant of the type of evidence required to establish her claim; however, appellant failed to submit such evidence. Accordingly, as appellant failed to submit any probative medical evidence establishing that she sustained a lower back injury in the performance of duty, the Office properly denied appellant' s claim for compensation.

The decision of the Office of Workers' Compensation Programs dated June 20, 2002 is hereby affirmed.

Dated, Washington, DC
June 27, 2003

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member

Michael E. Groom
Alternate Member

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

[9] *Id.*

[10] 5 U.S.C. § 8101(2); *see also Linda Holbrook*, 38 ECAB 229 (1986).