U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of DAVID A. RIVERS and DEPARTMENT OF VETERANS AFFAIRS, VETERANS ADMINISTRATION MEDICAL CENTER, Temple, TX

Docket No. 03-1680; Submitted on the Record;
Issued October 23, 2003

DECISION and ORDER

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

The issue is whether appellant has established that he sustained an injury to his right rib in the performance of duty on December 31, 2002.

On January 10, 2003 appellant, a 38-year-old nursing assistant, filed a claim for a traumatic injury alleging that he injured his right rib on December 31, 2002 while pushing a table in the performance of duty.

By letter dated February 11, 2003, the Office of Workers' Compensation Programs advised appellant that it required additional factual and medical evidence to determine whether he 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 his claimed condition was causally related to his federal employment. The Office requested that appellant submit the additional evidence within 30 days.

Appellant submitted a February 4, 2003 Form CA-20 from a physician's assistant; a January 24, 2003 Form CA-17 from a physician's assistant; and treatment reports dated January 2, 9 and 22, and February 5, 2003 from a physician's assistant.[1]

By decision dated March 18, 2003, the Office denied the claim, finding that he failed to submit sufficient medical evidence in support of his claim.

By letter dated April 3, 2003, appellant requested reconsideration. Appellant submitted reports dated February 20 and April 2, 2003 from Dr. John W. Ditzler, a Board-certified orthopedic surgeon. In his February 20, 2003 report, Dr. Ditzler stated that appellant told him

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[1] The Board notes that reports from a physician's assistant do not constitute medical evidence. *See Ricky S. Storms*, 52 ECAB 349 (2001).

his original injury, which is unrelated to the subject injury, occurred in July 2002, when he was treated for chest wall discomfort caused by excessively heavy lifting.[2]

In an April 2, 2003 report, Dr. Ditzler stated findings on examination and noted recurring chest wall and shoulder pain. He also noted that appellant had restricted shoulder motion which was apparently due to discomfort. Dr. Ditzler further stated:

> "[Appellant's] original date of injury was in July 2002 when he was seen at Scott & White by Dr. Mackey and released. The problem he is having now [stemmed] originally from an exacerbation of this, which occurred in December 2002. However, the basic problem is one with his chest wall musculature, this affects also his shoulder."

Dr. Ditzler also submitted an April 2, 2003 Form CA-20 on which he diagnosed recurrent chest wall pain and checked a box indicating that appellant's injury was caused or aggravated by a July 31, 2002 injury.

By decision dated April 29, 2003, the Office denied reconsideration.

The Board finds that appellant has failed to establish that he sustained an injury to his right rib in the performance of duty on December 31, 2002.

An employee seeking benefits under the Federal Employees' Compensation Act[3] 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.[4] 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.[5]

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.[6] 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.[7] The medical evidence required

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[2] It is unclear from the record whether the July 2002 incident was an accepted work injury.

[3] 5 U.S.C. §§ 8101-8193.

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

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

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

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

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.[8]

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.[9] Appellant has not submitted sufficient rationalized, probative medical evidence to establish that the employment incident on December 31, 2002 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.[10]

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 her condition was caused, precipitated or aggravated by his employment is sufficient to establish causal relationship.[11] Causal relationship must be established by rationalized medical opinion evidence and appellant failed to submit such evidence. The only medical documents appellant submitted were the reports from Dr. Ditzler, who stated findings on examination, indicated that appellant had right chest wall and shoulder pain but did not provide a specific diagnosis. The weight of medical opinion is determined by the opportunity for and thoroughness of examination, the accuracy and completeness of physician's knowledge of the facts of the case, the medical history provided, the care of analysis manifested and the medical rationale expressed in support of stated conclusions.[12] Although Dr. Ditzler stated in his April 2, 2003 report that appellant's current problem initially resulted from an exacerbation of his December 2002 injury, this statement is not probative with regard to causal relationship because it is vague and lacking rationale. While Dr. Ditzler does indicate a specific condition, "sprain chest wall," he related this to a July 31, 2002 work injury. There is no indication in the record, however, that this injury was work related. Dr. Ditzler failed to provide a rationalized, probative medical opinion relating appellant's current condition to any factors of his employment. Furthermore, the Form CA-20 from Dr. Ditzler that supported causal relationship with a

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[8] *Id*.

[9] *John J. Carlone*, *supra* note 6.

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

[11] *Id.*

[12] *See Anna C. Leanza*, 48 ECAB 115 (1996).

checkmark is insufficient to establish the claim, as the Board has held that without further explanation or rationale, a checked box is not sufficient to establish causation.[13]

The Office advised appellant of the evidence required to establish his claim; however, appellant failed to submit such evidence. Appellant, therefore, did not provide a medical opinion to sufficiently describe or explain the medical process through which the December 31, 2002 work accident would have caused the claimed injury. Accordingly, as appellant has failed to submit any probative medical evidence establishing that he sustained a right rib injury in the performance of duty, the Office properly denied appellant's claim for compensation.[14]

The decisions of the Office of Workers' Compensation Programs dated April 29 and March 18, 2003 are affirmed.

Dated, Washington, DC
October 23, 2003

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member

Michael E. Groom
Alternate Member

[13] *Debra S. King*, 44 ECAB 203 (1992); *Salvatore Dante Roscello*, 31 ECAB 247 (1979).

[14] By letter dated April 30, 2003, appellant submitted a request for reconsideration of the April 29, 2003 Office decision, which was received by the Office on May 1, 2003. The Office's jurisdiction over the claim, however, was superceded by appellant's June 23, 2003 filing of his appeal with the Board, at which time appellant's reconsideration request became moot. *See* 20 C.F.R. § 10.626.