U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of DENNIS C. CONNOLLY and DEPARTMENT OF AGRICULTURE, AGRICULTURAL MARKETING SERVICE, Knoxville, IA

Docket No. 03-1967; Submitted on the Record;
Issued October 17, 2003

DECISION and ORDER

Before COLLEEN DUFFY KIKO, WILLIE T.C. THOMAS, MICHAEL E. GROOM

The issue is whether appellant has established that he sustained an injury in the performance of duty on September 6, 2002.

On November 14, 2002 appellant, then a 43-year-old meat acceptance specialist, filed a claim for traumatic injury alleging that on September 6, 2002 he sustained an injury when a ham fell from an overhead conveyor belt, striking him on the back of his head and neck and caused him to lose consciousness. Appellant submitted an undated statement noting that, at the time of the incident, he was standing in a production area when a ham fell from an overhead line. In a report dated February 5, 2003, the employing establishment advised that appellant was standing in his usual work area when a ham fell and hit him on the shoulder. By letter dated March 14, 2003, the Office of Workers' Compensation Programs advised appellant that the information he had submitted was insufficient to establish that he sustained an injury, as alleged. The Office requested that appellant's treating physician provide a diagnosis and an opinion as to how the incident resulted in an injury.

In a report dated April 2, 2003, an insurance company requested reimbursement for medical expenses incurred on behalf of the September 6, 2002 incident and submitted invoices for services and diagnostic tests performed on October 30 and December 2, 2002 and January 2, 2003.

By decision dated April 16, 2003, the Office denied the claim finding that appellant had established that the claimed event occurred, but that the medical evidence failed to establish that a compensable injury or condition occurred as a result of the September 6, 2002 incident.

The Board finds that appellant has failed to establish that he sustained an injury in the performance of duty on September 6, 2002.

An employee seeking benefits under the Federal Employees' Compensation Act[1] has the burden of proof to establish the essential elements of his or her claim. When an employee claims that she sustained an injury in the performance of duty, he or she must submit sufficient evidence to establish that she experienced a specific event, incident or exposure occurring at the time, place and in the manner alleged. He or she must also establish that such event, incident or exposure caused an injury.[2] In order to determine whether an employee 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 employment incident caused a personal injury and generally this can be established only by medical evidence.[3]

The medical evidence required to establish causal relationship is usually rationalized medical evidence. Rationalized medical opinion evidence is medical evidence that includes a physician's rationalized opinion on whether there is a causal relationship between the claimant's diagnosed condition and the established incident or factor of employment. 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 established incident or factor of employment.[4]

In this case, the Office accepted that the September 6, 2002 incident occurred but did not find that appellant sustained a compensable injury as a result of the incident. The question of whether an employment incident caused injury generally is established by medical evidence.[5] Appellant has not submitted any rationalized probative medical evidence to establish that the employment incident of September 6, 2002 caused a compensable injury. Neither the fact that a disease or condition manifests itself during a period of employment nor the belief that the disease or condition was caused or aggravated by employment factors or incidents is sufficient to establish causal relationship.[6] Causal relationship must be established by rationalized medical opinion evidence and appellant failed to submit such evidence in the present case. The Office advised appellant of the type of evidence required to establish his claim; however, he failed to submit such evidence. The medical bills appellant submitted are not probative as they do not address causation.[7] As appellant did not provide any medical evidence describing or explaining the medical process through which the September 6, 2002 incident caused an injury, he failed to

[1] 5 U.S.C. §§ 8101-8193.

[2] *Betty J. Smith*, 54 ECAB ___ (Docket No. 02-149, issued October 29, 2002).

[3] *Deborah L. Beatty*, 54 ECAB ___ (Docket No. 02-2294, issued January 15, 2003)

[4] *John W. Montoya*, 54 ECAB ___ (Docket No. 02-2249, issued January 3, 2003).

[5] *Id.*

[6] *Jamel A. White*, 54 ECAB ___ (Docket No. 02-1559, issued December 10, 2002).

[7] *See Meriam E. McMullen*, Docket No. 95-882 (issued February 25, 1997).

establish that he sustained an injury in the performance of duty. The Office therefore properly denied appellant's claim for compensation.[8]

The April 16, 2003 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, DC
October 17, 2003

Colleen Duffy Kiko
Member

Willie T.C. Thomas
Alternate Member

Michael E. Groom
Alternate Member

[8] The Board notes that the case record contains evidence which was submitted subsequent to the Office's April 16, 2003 decision. The Board may not review this evidence for the first time on appeal; *see* 20 C.F.R. § 501.2(c); *James C. Campbell*, 5 ECAB 35, 36 n.2 (1952). This decision does not preclude appellant from submitting new evidence to the Office and requesting reconsideration pursuant to 5 U.S.C. § 8128(a).