

that an incident occurred at the time, place and in the manner alleged and remanded the case to the Office to determine whether the medical evidence established that appellant sustained a traumatic injury to the right leg causally related to the September 19, 2002 employment incident. The facts and the circumstances of the case up to that point are set forth in the Board's prior decision and incorporated herein by reference.¹

In support of his claim, appellant submitted emergency room records from October 3, 2002 in which Dr. W. Elwin Crawford, Board-certified in emergency medicine, noted that he presented with right lower leg pain. Appellant reported that he had bumped his right lower leg on a geriatric chair two weeks prior. An x-ray of the right leg dated October 3, 2002 revealed no fracture. A duty status report dated October 3, 2002 reported a history that appellant bumped his leg on a broda chair two weeks earlier without skin break. Dr. Crawford diagnosed a diabetic ulcer and recommended admission to the hospital. Dr. Albert T. White, Jr., a Board-certified internist, noted in reports dated October 4, 7 and 8, 2002, that appellant presented with pain, swelling and drainage from his right leg. He obtained a history of chronic stasis and cellulitis in the right leg and advised that appellant bumped his leg two weeks prior and sustained a skin tear, which evolved into an ulcer.

Dr. Garner Rowell, Board-certified in emergency medicine, reported on October 7 and 8, 2002 that appellant presented with progressive swelling and itching of his right lower extremity which occurred after he bumped his leg. He diagnosed multiple ulcers of the right lower extremity, which occurred from a previous injury. Dr. Ross E. Bunch, a specialist in plastic surgery, noted appellant's history of diabetes and, upon physical examination, noted that there were two small ulcerations to the anterior right lower leg with drainage. Appellant was diagnosed with cellulitis of the right lower extremity and diabetes and admitted for observation. He was discharged on October 9, 2002. In emergency room records dated October 23, 2002, Dr. Robert Posey, Board-certified in emergency medicine, indicated that appellant was treated for an infected stasis ulcer of the right lower extremity. Treatment notes from October 4 to December 12, 2002, indicated that appellant was treated for chronic right leg ulceration and cellulitis. Prescription notes submitted by Dr. Bunch dated October 29 and December 2, 2002, advised that appellant was to remain off work and report to the wound center for treatment of his right lower extremity. Also submitted were reports from Dr. Bunch dated January 2 to 9, 2003, which advised that appellant was treated for an infected stasis ulcer of the right lower extremity which had resolved. Dr. Bunch diagnosed chronic ulcer of the right lower extremity with onset related to a trauma by history and slow healing related to chronic venous stasis.

By letter dated July 8, 2004, the Office asked appellant to submit additional information including a comprehensive medical report from his treating physician, which included a reasoned explanation as to how the specific work factors or incidents identified by appellant had contributed to his claimed injury.

Appellant submitted reports from Dr. Rauf Abdul, an internist, dated October 3 and 10, 2002. He noted that appellant was admitted to the hospital for treatment of areas of ulceration and excoriations in the right anterior and lateral leg, weepy discharging ulcers and

¹ Docket No. 04-202 (issued June 7, 2004).

swelling. Appellant reported that he bumped his leg on a chair two weeks prior, did not seek immediate medical treatment but applied a topical ointment. Dr. White reported on October 17, 2002 that appellant was hospitalized from October 3 to 9, 2002, with chronic cellulitis of the right lower extremity with evidence of chronic stasis and cellulitis of the leg. In November 20, 2002 reports, Dr. Kyung Yoon, Board-certified in physical medicine and rehabilitation, noted that appellant injured his right lower leg in mid September when he hit a wheel chair. He noted that cellulitis set in and an open wound started and diagnosed ulcer of the right ankle. Appellant was also treated by Dr. G. Eli Howell, an internist, who reported on November 19, 2002 that appellant would remain off work an additional week and on January 2, 2003, advised that appellant could return to work part-time full duty and must wear an ace wrap on his leg.

By letter dated August 16, 2004, the Office again requested additional information.

Appellant submitted duplicative reports from Dr. White dated October 7, 2002; Dr. Howell dated November 19 and 26, 2002; Dr. Abdul dated October 3, 2002; and Dr. Bunch dated January 2, 2003.

In a decision dated October 14, 2004, the Office denied appellant's claim as the medical evidence was not sufficient to establish that his right leg condition was related to the accepted September 19, 2002 incident.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act has the burden of establishing 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 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 are causally related to the employment injury. 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.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 which is alleged to have occurred.³ 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

² *Gary J. Watling*, 52 ECAB 357 (2001).

³ *Michael E. Smith*, 50 ECAB 313 (1999).

must submit rationalized medical opinion evidence, based on a complete factual and medical background, supporting such a causal relationship.⁴

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.⁵ 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.⁶

ANALYSIS

It has been accepted that on September 19, 2002 the claimed incident occurred as alleged, specifically that appellant hit his right leg on a broda chair. The Board finds that the medical evidence is insufficient to establish that he sustained a right leg injury causally related to the September 19, 2002 incident.

The medical records submitted most contemporaneously with the date of the alleged injury, specifically the emergency room records dated October 3, 2002, from Dr. Crawford, noted that appellant presented with right lower leg pain which he reported developed after he bumped his right lower leg on a geriatric chair two weeks prior. However, Dr. Crawford failed to mention that appellant's right leg injury was work related nor did he provide a rationalized opinion regarding the causal relationship between appellant's right leg injury and the factors of employment believed to have caused or contributed to such condition.⁷ Therefore, this report is insufficient to meet appellant's burden of proof.

Dr. White a Board-certified internist, noted in reports dated October 7 and 8, 2002, that appellant presented with pain, swelling and drainage from his right leg. He further noted a history of chronic stasis and cellulitis in the right leg and advised that appellant bumped his leg two weeks previously and sustained a skin tear, which evolved into an ulcer. On October 17, 2002 Dr. White noted that appellant was hospitalized from October 3 to 9, 2002 with chronic cellulites of the right lower extremity with evidence of chronic stasis and cellulites of the leg. However, Dr. White failed to mention that appellant's injury was work related and he failed to provide a rationalized opinion regarding the causal relationship between appellant's right leg

⁴ *Id.*

⁵ *Leslie C. Moore*, 52 ECAB 132 (2000).

⁶ *Jimmie H. Duckett*, 52 ECAB 332 (2001); *Franklin D. Haislah*, 52 ECAB 457 (2001) (medical reports not containing rationale on causal relationship are entitled to little probative value).

⁷ *Id.*

injury and the factors of employment believed to have caused or contributed to such condition.⁸ Therefore, these reports are insufficient to meet appellant's burden of proof.

Other reports from Dr. Rowell dated October 7 and 8, 2002, noted that appellant presented with progressive swelling and itching of his right lower extremity which occurred when he bumped his leg two weeks previously. He diagnosed multiple ulcers of the right lower extremity which occurred from a previous injury. However, Dr. Rowell neither mentioned that appellant's injury was work related nor did he provide a rationalized opinion regarding the causal relationship between appellant's right leg injury and the factors of employment believed to have caused or contributed to such condition.⁹ Likewise, reports from Dr. Bunch from October 29, 2002 to March 18, 2003, noted appellant's history of diabetes and upon physical examination it was noted that there were two small ulcerations to the anterior right lower leg with drainage and was diagnosed with cellulitis of the right lower extremity and diabetes. Dr. Bunch diagnosed chronic ulcer of the right lower extremity with onset related to a trauma by history and slow healing related to chronic venous stasis. However, Dr. Bunch failed to reference an injury causing event on September 19, 2002 nor did he provide a rationalized opinion regarding the causal relationship between appellant's right leg injury and the factors of employment believed to have caused or contributed to such condition.¹⁰ Rather, he appeared to attribute appellant's injury to his diabetic condition. Therefore, these reports are insufficient to meet appellant's burden of proof.

Finally, a report from Dr. Yoon dated November 20, 2002, noted that appellant injured his right lower leg in mid September when he hit the wheel chair with his right leg. He diagnosed ulcer of the right ankle. However, his report also failed to provide a rationalized opinion regarding the causal relationship between appellant's right leg injury and the factors of employment believed to have caused or contributed to such condition.¹¹ Therefore, this report is insufficient to meet appellant's burden of proof.

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.¹²

⁸ See *Jimmie H. Duckett*, *supra* note 6.

⁹ *Id.*

¹⁰ See *Jimmie H. Duckett*, *supra* note 6.

¹¹ *Id.*

¹² See *Dennis M. Mascarenas*, 49 ECAB 215 (1997).

CONCLUSION

The Board finds that appellant failed to meet his burden of proof to establish that he sustained a right leg injury causally related to his September 19, 2002 employment incident.¹³

ORDER

IT IS HEREBY ORDERED THAT the October 14, 2004 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: June 21, 2005
Washington, DC

Alec J. Koromilas
Chairman

Colleen Duffy Kiko
Member

Michael E. Groom
Alternate Member

¹³ On appeal, appellant submitted new medical evidence. However, the Board may not consider this evidence for the first time on appeal as its review is limited to the evidence in the case record that was before the Office at the time of its final decision. 20 C.F.R. § 501.2(c).