United States Department of Labor
Employees' Compensation Appeals Board

ROY L. HUMPHREY, Appellant	)	
and	)	**Docket No. 05-1928**
	)	**Issued: November 23, 2005**
DEPARTMENT OF THE NAVY, MARINE CORPS BASE, CAMP LEJEUNE, NC, Employer	)	

Appearances:
Roy L. Humphrey, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Chief Judge
DAVID S. GERSON, Judge
MICHAEL E. GROOM, Alternate Judge

JURISDICTION

On September 15, 2005 appellant filed a timely appeal from the Office of Workers' Compensation Programs' merit decisions dated June 10 and August 26, 2005 denying his occupational injury claim. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

ISSUE

The issue is whether appellant has met his burden of proof in establishing that he sustained an injury in the performance of duty.

FACTUAL HISTORY

On March 10, 2005 appellant, a former plumber, filed an occupational injury claim, alleging that his body had been exposed to sewer water. He identified the date of injury as February 12, 1998 and indicated that he first realized that his condition was caused by factors of employment on January 5, 1995, also the date on which the employing establishment advised that the injury was first reported.

By letter dated May 6, 2005, the Office advised appellant that the evidence submitted was insufficient to establish his claim and requested additional information, including details regarding his exposure to sewer water and a medical report providing a diagnosis and an opinion as to the cause of his diagnosed condition.

In response to the Office's request, appellant submitted prescription notes and records dated February 4, 2003, September 8, 2004 and May 11, 2005, signed by Dr. Joseph F. Huppman, a treating physician. In the February 4, 2003 notes, Dr. Huppman related appellant's claim that his persistent rash developed as a result of his exposure to sewer water in the performance of his duties as a plumber eight years earlier. The September 8, 2004 notes reflected that appellant had a persistent rash on his eyelids, legs, trunk and groin, as well as a significant flare-up of "jock itch." Dr. Huppman's May 11, 2005 notes reflect impressions of follicular eczema and hypertension.[1] Appellant also submitted health records from March 18, 1985 through March 7, 1994, including a February 12, 1988 request for radiological consultation signed by Dr. Ernsk K.W. Kredel, certified in the area of public health, indicating exposure to PVC pipe cement. Notes dated February 12, 1988, signed by Sylvia S. Breeze, a nurse, reflect appellant's exposure to PVC pipe cement. As January 5, 1995 notes signed by G. Peters, a nurse, reflect that appellant had itching from the waist down. Appellant submitted numerous personnel records and an April 20, 2005 statement from Gary Lynn of the employing establishment who stated that appellant's alleged exposure to sewer water occurred prior to his own assignment to the maintenance shop. He recalled that appellant was seen at the dispensary for a rash, but could not recall the date or prognosis. Mr. Lynn did not know whether appellant's rash was caused by sewage and was not aware of a similar case in the employing establishment. Appellant also submitted a narrative statement dated May 11, 2005. He alleged that he was exposed to sewer water in the process of "cleaning out" commodes under the trailers at Knox Trailer Park and that, as a result of his exposure, he developed skin rashes, itching and burning skin and germs in his hair roots. He contended that he never had any skin problems prior to this exposure.

By decision dated June 10, 2005, the Office denied appellant's claim on the grounds that he had failed to establish that his diagnosed medical condition was causally related to an established work-related event.

Appellant submitted a request for reconsideration dated June 21, 2005 and he submitted numerous medical reports and records, including audiologist reports, immunization records, and prescriptions for protective eyewear. Appellant also provided a chronologic record of medical care from March 16, 1984 through December 18, 2002. On February 12, 1988 Ms. Breeze, a nurse, reported appellant's complaints of exposure to PVC pipe cement. On February 12, 1988 Dr. Kredel reported "no significant consequences except for possible skin irritation from exposure at work" and "no current skin abnormality noted." On January 5, 1995 Ms. Peters reported that appellant experienced itching from the waist down. John Hawley, a physician's assistant, opined that his rash "[didn't] appear to be folliculites that would result from his job." On December 18, 2002 Dr. Gary T. Whitlock, Board-certified in emergency medicine, noted a rash from the waist down. A chronologic medical surveyance questionnaire bearing an illegible

[1] Dr. Huppman's notes reflect two additional conditions, which are illegible.

signature identified "sewer solvent" under the category of "potential hazards" of appellant's employment from September 19, 1995 to September, 2002. In an undated narrative statement, appellant repeated his responsibilities as a plumber and expressed his belief that his condition was a result of exposure to PVC pipe cement on his body.

In a merit decision dated August 26, 2005, the Office denied modification of its June 10, 2005 decision, finding that appellant had provided no evidence of a causal relationship between his claimed condition and the alleged work-related exposures.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act[2] has the burden of establishing the essential elements of his 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, that an injury was sustained in the performance of duty as alleged and that any disability or specific condition for which compensation is claimed is causally related to the employment injury.[3] 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.[4]

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the employment factors identified by the claimant were the proximate cause of the condition for which compensation is claimed or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant. The medical evidence required to establish causal relationship, generally, is rationalized medical opinion 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.[5]

[2] 5 U.S.C. §§ 8101-8193.

[3] *Joe D. Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

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

[5] *Id.*

ANALYSIS

Appellant has submitted insufficient medical evidence to establish that his medical condition was caused or aggravated by his federal employment.

Appellant submitted medical records which indicated that he was treated for a persistent rash. However, there is no discussion in any of the reports explaining how factors of his employment caused or contributed to his condition. The record contains no rationalized medical opinion explaining how the implicated employment factors caused appellant's diagnosed follicular eczema.

Dr. Huppman's May 11, 2005 report provided a diagnosis of follicular eczema. However, the report does not provide any explanation as to the cause of the condition. Dr. Kredel's February 12, 1988 report reflected "possible skin irritation from exposure at work." Dr. Kredel's opinion lacks probative value in that it did not provide a firm diagnosis, is vague and equivocal, and failed to explain the causal relationship between appellant's condition and any work-related exposures.[6] Moreover, by virtue of its date, Dr. Kredel's 1988 report cannot explain a connection between the alleged 1988 work-related injury and appellant's current 2005 condition.

Appellant submitted notes signed by Ms. Peters, Ms. Breeze and Mr. Hawley. As registered nurses, licensed practical nurses and physicians' assistants, they are not "physicians" as defined under the Act. Their opinions are of no probative value.[7] The remaining medical evidence of record, including notes signed by Dr. Whitlock, lacks any opinion on causal relationship and is, therefore, of diminished probative value.[8]

Appellant expressed his belief that his skin condition resulted from his exposure to sewer water and PVC pipe cement, alleging that he had never experienced any dermatological problems prior to his 1988 exposure. 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.[9] 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.[10] Causal relationship must be substantiated by reasoned medical opinion evidence, which appellant failed to submit. Therefore, appellant's belief that his condition was caused by the alleged work-related injury is not determinative.

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[6] *See Michael E. Smith*, 50 ECAB 313 (1999).

[7] 5 U.S.C. § 8101(2) of the Act provides as follows: "(2) 'physician' includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, and osteopathic practitioners within the scope of their practice as defined by State law."

[8] *See Michael E. Smith, supra* note 6.

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

[10] *Id.*

The Office advised appellant that it was his responsibility to provide a comprehensive medical report which described his symptoms, test results, diagnosis, treatment and the doctor's opinion, with medical reasons, on the cause of his condition. Appellant failed to submit sufficient medical documentation in response to the Office's request. As there is no probative, rationalized medical evidence addressing how appellant's claimed skin conditions were caused or aggravated by his employment, appellant has not met his burden of proof in establishing that he sustained an occupational disease in the performance of duty causally related to factors of employment.

CONCLUSION

The Board finds that appellant has not met his burden of proof in establishing that he sustained an injury in the performance of duty.

ORDER

IT IS HEREBY ORDERED THAT the decisions of the Office of Workers' Compensation Programs dated August 26 and June 10, 2005 are affirmed.

Issued: November 23, 2005
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

David S. Gerson, Judge
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board