



By letter dated October 12, 2005, the Office advised appellant that he had not submitted sufficient evidence to establish that he had sustained a traumatic injury in the performance of duty. The Office solicited additional information, including medical evidence providing a diagnosis and a physician's opinion explaining a causal relationship between the diagnosed condition and the alleged October 5, 2005 accident.

On November 18, 2005 the Office denied appellant's traumatic injury claim on the grounds that he failed to establish that his claimed condition was caused by factors of employment as alleged.<sup>1</sup>

### **LEGAL PRECEDENT**

The Federal Employees' Compensation Act<sup>2</sup> provides for payment of compensation for disability or death of an employee resulting from personal injury sustained while in the performance of duty.<sup>3</sup> The phrase "sustained while in the performance of duty" is regarded as the equivalent of the coverage formula commonly found in workers' compensation laws, namely, arising out of and in the course of employment.<sup>4</sup>

An employee seeking benefits under the Act has the burden of proof to establish 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.<sup>5</sup> When an employee claims that he or she sustained a traumatic injury in the performance of duty, they must establish the fact of injury consisting of two components which must be considered in conjunction with one another. The first is whether the employee actually experienced the incident that is alleged to have occurred at the time, place and in the manner alleged. The second is whether the employment incident caused a personal injury and generally this can be established only by medical evidence.<sup>6</sup>

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<sup>1</sup> The Board notes that appellant submitted additional evidence after the Office rendered its November 18, 2005 decision. The Board's jurisdiction is limited to reviewing the evidence that was before the Office at the time of its final decision. Therefore, this additional evidence cannot be considered by the Board. 20 C.F.R. § 501.2(c); *Dennis E. Maddy*, 47 ECAB 259 (1995); *James C. Campbell*, 5 ECAB 35, 36 n.2 (1952). Appellant may submit this evidence to the Office, together with a formal request for reconsideration, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. § 10.606(b)(2).

<sup>2</sup> 5 U.S.C. §§ 8101 *et seq.*

<sup>3</sup> 5 U.S.C. § 8102(a).

<sup>4</sup> This construction makes the statute effective in those situations generally recognized as properly within the scope of workers' compensation law. *Charles E. McAndrews*, 55 ECAB \_\_\_\_ (Docket No. 04-1257, issued September 10, 2004); *see also Bernard D. Blum*, 1 ECAB 1 (1947).

<sup>5</sup> *Robert Broome*, 55 ECAB \_\_\_\_ (Docket No. 04-93, issued February 23, 2004).

<sup>6</sup> *Deborah L. Beatty*, 54 ECAB 340 (2003). *See also Tracey P. Spillane*, 54 ECAB 608 (2003); *Betty J. Smith*, 54 ECAB 174 (2002). The term "injury," as defined by the Act, refers to a disease proximately caused by the employment. 5 U.S.C. § 8101(5). *See* 20 C.F.R. § 10.5(q), (ee).

The claimant has the burden of establishing by the weight of reliable, probative and substantial evidence that the condition for which compensation is sought is causally related to a specific employment incident or to specific conditions of employment.<sup>7</sup> An award of compensation may not be based on appellant's belief of causal relationship.<sup>8</sup> Neither the mere 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 a causal relationship.<sup>9</sup> Simple exposure to a workplace hazard does not constitute a work-related injury entitling an employee to medical treatment under the Act.<sup>10</sup>

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion 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 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.<sup>11</sup>

### ANALYSIS

The Office accepted that appellant was a federal employee, that he timely filed his claim for compensation benefits and that the workplace incident occurred as alleged. The issue, therefore, is whether he has submitted sufficient medical evidence to establish that the employment incident caused an injury. Appellant submitted no medical evidence in support of his claim prior to the Office's November 18, 2005 decision. Therefore, he failed to establish a *prima facie* claim for compensation.

An award of compensation may not be based on surmise, conjecture, speculation or upon appellant's own belief that there is a causal relationship between his claimed condition and his employment.<sup>12</sup> To establish causal relationship, he must submit a physician's report in which the physician reviews those factors of employment identified by him as causing his condition and, taking these factors into consideration as well as findings upon examination and appellant's

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<sup>7</sup> *Katherine J. Friday*, 47 ECAB 591, 594 (1996).

<sup>8</sup> *Dennis M. Mascarenas*, 49 ECAB 215, 218 (1997).

<sup>9</sup> *Florencio D. Flores*, 55 ECAB \_\_\_\_ (Docket No. 04-942, issued July 12, 2004).

<sup>10</sup> 20 C.F.R. § 10.303(a).

<sup>11</sup> *John W. Montoya*, 54 ECAB 306 (2003).

<sup>12</sup> *Patricia J. Glenn*, 53 ECAB 159 (2001).

medical history, explain how these employment factors caused or aggravated any diagnosed condition and present medical rationale in support of his opinion.<sup>13</sup> Appellant failed to submit such evidence and, therefore, failed to satisfy his burden of proof. The Board finds that the Office properly denied his claim for benefits under the Act.

**CONCLUSION**

Appellant has not met his burden of proof to establish that he sustained a traumatic injury to his back in the performance of duty on October 5, 2005.

**ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated November 18, 2005 is affirmed.

Issued: June 2, 2006  
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

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<sup>13</sup> *Robert Broome, supra* note 5.