

away from her place of employment.¹ Appellant first became aware of her injury on September 1, 2002, but first realized that the alleged injury was caused or aggravated by her employment on July 28, 2003. He reported the injury to her supervisor on August 19, 2002.

In support of her claim, appellant provided a statement dated August 16, 2003 reflecting her belief that contaminants in her work environment, including dust and chemical fumes, caused her symptoms. She had experienced the alleged symptoms since 1991, when she filed a previous CA-2 claim form. Because the “statute of limitation” had rendered that claim “invalid,” she was “reapplying for a new case to be open (sic).”

In a September 22, 2003 letter, advising appellant that the evidence submitted was insufficient to establish her claim, the Office requested medical evidence identifying the cause of her condition. In response to the Office’s request, appellant submitted a September 2, 2003 report from Loren Newman, nurse practitioner, reflecting appellant’s complaints of dizziness and lightheadedness due to inhalation of allergens at work. Appellant also submitted a statement dated September 26, 2003, alleging that contamination in the workplace occurred due to a lack of windows and air filtering units.

By decision dated November 21, 2003, the Office denied appellant’s claim on the grounds that she had not established a causal relationship between the diagnosed condition and work-related events.

Appellant requested an oral hearing, which was held on July 1, 2004. Appellant reiterated her belief that pollutants at work were responsible for her symptoms, which included high blood pressure, sores on her face, swollen feet and lightheadedness. She stated that her physicians believed that these were allergic reactions to conditions at the employing establishment. The hearing representative advised appellant to submit medical reports from her treating physician reflecting an opinion on the cause of her condition and left the record open for an additional 45 days.

Appellant submitted numerous copies of medical documents predating the onset of her alleged work-related condition. None of this evidence contains an opinion from a physician supporting a causal relationship between appellant’s current medical condition and her employment.

On July 30, 2004 the employing establishment submitted the results of an environmental test dated December 7, 1999 and entitled “Submittal of Final Property Background Investigation Report.” The report concluded that no known significant environmental hazards existed from current operations at appellant’s work site.

On July 19, 2004 the Office received reports dated May 6 and 18, 2004 and signed by Dr. Robert Pandya, a Board-certified internist. On May 6, 2004 Dr. Pandya rendered diagnoses of “probable dust exposure at work;” “probable perennial allergic rhinitis with intermittent

¹ A letter from a human resources associate dated August 22, 2003 reflects that appellant filed three previous claims with similar allegations. However, the record does not contain evidence related to those claims.

symptoms-stable;" and intermittent dizziness and lightheadedness and disequilibrium possibly secondary to cerumen impaction." He advised continued use of a dust mask at work. On May 18, 2004 Dr. Pandya reiterated his diagnoses and indicated that appellant's condition had not yet stabilized.

A report dated December 7, 1999 of a property background investigation performed at the employing establishment revealed no indication of environmental concerns.

By decision dated September 20, 2004, the Office hearing representative affirmed the November 21, 2003 decision, finding that appellant had failed to provide adequate medical evidence containing a physician's opinion supporting a causal relationship. He stated that the only medical evidence that made reference to appellant's current condition was a November 26, 1996 report of occupational injury or illness in which appellant stated that she was allergic to dust mites. The hearing representative did not make reference to Dr. Pandya's May 6 and 18, 2004 reports.

Appellant filed an appeal with the Board on October 15, 2004. By decision dated March 17, 2005, the Board set aside the hearing representative's September 20, 2004 decision and remanded the case for full consideration of all properly submitted evidence, including Dr. Pandya's May 6 and 18, 2004 medical reports.²

By decision dated October 14, 2005, the Office hearing representative affirmed the Office's November 21, 2003 decision, finding that appellant had failed to provide a rationalized medical opinion establishing that her claimed conditions were causally related to factors of her employment.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act³ has the burden of establishing the essential elements of her claim, including the fact that an injury was sustained in the performance of duty as alleged,⁴ and that any disability and/or specific condition for which compensation is claimed are causally related to the employment injury.⁵

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

² Docket No. 05-155 (issued March 17, 2005).

³ 5 U.S.C. §§ 8101-8193.

⁴ *Joseph W. Kripp*, 55 ECAB ____ (Docket No. 03-1814, issued October 3, 2003); *see also Leon Thomas*, 52 ECAB 202, 203 (2001). "When an employee claims that he sustained injury in the performance of duty he must submit sufficient evidence to establish that he experienced a specific event, incident or exposure occurring at the time, place and in the manner alleged. He must also establish that such event, incident or exposure caused an injury." *See also* 5 U.S.C. § 8101(5) ("injury" defined); 20 C.F.R. § 10.5(q) and (ee) (2002) ("Occupational disease or Illness" and "Traumatic injury" defined).

⁵ *Dennis M. Mascarenas*, 49 ECAB 215, 217 (1997).

presence or existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying the 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 diagnosed condition is causally related to the employment factors identified by the claimant.⁶ The medical evidence required to establish a causal relationship, generally, is rationalized medical opinion evidence, *i.e.*, medical evidence presenting a physician's well-reasoned opinion on how the established factor of employment caused or contributed to claimant's diagnosed condition. To be of probative value, 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.⁷ Additionally, the Board has consistently held that unsigned medical reports are of no probative value⁸ and that any medical evidence upon which the Office relies to resolve an issue must be in writing and signed by a qualified physician.⁹ Lay individuals such as physician assistants, nurse practitioners and social workers are not competent to render a medical opinion.¹⁰ An award of compensation may not be based on appellant's belief of causal relationship. 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.¹¹

ANALYSIS

Appellant has submitted insufficient medical evidence to establish that her diagnosed medical condition was caused or aggravated by factors of her federal employment.

The medical evidence of record included reports dated May 6 and 18, 2004 from Dr. Pandya, who provided diagnoses of "probable dust exposure at work;" "probable perennial allergic rhinitis with intermittent symptoms-stable;" and intermittent dizziness and lightheadedness and disequilibrium possibly secondary to cerumen impaction." Dr. Pandya's reports lack probative value in the physician did not provide a specific diagnosis. His opinion is vague and equivocal, and fails to address the causal relationship between appellant's condition and any work-related factors.¹²

⁶ *Michael R. Shaffer*, 55 ECAB ____ (Docket No. 04-233, issued March 12, 2004). *See also Solomon Polen*, 51 ECAB 341, 343 (2000).

⁷ *Leslie C. Moore*, 52 ECAB 132, 134 (2000); *see also Ern Reynolds*, 45 ECAB 690, 695 (1994).

⁸ *Merton J. Sills*, 39 ECAB 572, 575 (1988).

⁹ *James A. Long*, 40 ECAB 538, 541 (1989).

¹⁰ *Janet L. Terry*, 53 ECAB 570 (2002).

¹¹ *Phillip L. Barnes*, 55 ECAB ____ (Docket No. 02-1441, issued March 31, 2004); *see also Dennis M. Mascarenas*, *supra* note 5 at 218.

¹² *See Michael E. Smith*, 50 ECAB 313 (1999).

Appellant submitted a September 2, 2003 report from Ms. Newman, nurse practitioner, attributing appellant's complaints of dizziness and lightheadedness to inhalation of allergens at work. As nurse practitioners do not qualify as "physicians" under the Act, their opinions are of no probative value.¹³

The remaining medical evidence of record does not contain a rationalized medical opinion explaining how work-related incidents or factors caused or aggravated any medical condition or disability. Therefore, appellant has failed to satisfy her burden of proof.

Appellant expressed her belief that her alleged condition resulted from her exposure to contaminants in her work environment, including dust and chemical fumes. 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.¹⁴ 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.¹⁵ Causal relationship must be substantiated by reasoned medical opinion evidence, which is appellant's responsibility to submit. Therefore, appellant's belief that her condition was caused by the alleged work-related injury is not determinative.

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

CONCLUSION

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

¹³ Section 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."

¹⁴ See *Joe T. Williams*, 44 ECAB 518, 521 (1993).

¹⁵ *Id.*

ORDER

IT IS HEREBY ORDERED THAT the October 14, 2005 decision of the Office of Workers' Compensation is affirmed.

Issued: May 9, 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