

In a November 1, 2004 attending physician's report, Dr. Bruce A. Parisi, a Board-certified family practitioner, diagnosed bursitis and possible rotator cuff tear. He checked the box indicating that this condition was not related to appellant's employment. Dr. Parisi advised that appellant could return to regular work on November 15, 2005.

Appellant received treatment from Dr. Churl-Soo Suk, a Board-certified orthopedic surgeon. In a November 29, 2005 attending physician's report, Dr. Suk indicated that appellant's magnetic resonance imaging (MRI) scan showed a rotator cuff tendinopathy with a complete tear of the distal supraspinatus tendon at the insertion site. He did not check the box to indicate whether appellant's condition was related to her employment. In a December 28, 2005 certificate, Dr. Suk noted that appellant had surgery on December 2, 2005, specifically an anterior acromioplasty and repair of the rotator cuff of the right shoulder. He indicated that appellant would be unable to work for approximately three months from the date of the surgery.

By letter dated January 11, 2006, the Office requested that appellant submit further evidence, including a comprehensive medical report from her treating physician. In response, appellant submitted a January 26, 2006 neurological evaluation by Dr. Augusto R. Chavez, a Board-certified neurosurgeon to whom Dr. Suk referred appellant. Dr. Chavez listed his impressions as: (1) pain in the right shoulder and upper extremities and neck of unknown etiology; (2) status post surgery of the right shoulder for repair of the rotator cuff tear; and (3) cervical spondylosis with small central bulging of the disc at C4-5 extending primarily to the right side of questionable significance. He indicated that appellant provided a history of working for the employing establishment and describing the job as demanding that she frequently use her right upper extremity.

In a decision dated March 16, 2006, the Office denied appellant's claim finding that the medical evidence did not establish that her claimed condition resulted from the accepted employment factors.

On March 21, 2006 appellant requested review of the written record. She submitted a March 21, 2006 letter further describing her employment history, job duties and medical treatment. An MRI scan dated November 21, 2005 was interpreted by Dr. Robert A. Breit, a Board-certified radiologist, as showing: (1) minor multilevel disc bulging; and (2) very small central/rightward disc herniation at C4-5. In a March 9, 2006 note from Well Group Health Partners to Dr. Parisi, it was noted that appellant was scheduled for a right shoulder manipulation under anesthesia on March 15, 2006.

By decision dated May 26, 2006, the hearing representative affirmed the March 16, 2006 decision.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act¹ 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

¹ 5 U.S.C. §§ 8101 *et seq.*

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.² 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.³

To establish that the 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 diagnosed condition is causally related to the employment factors identified by the claimant.⁴ The medical evidence required to establish causal relationship is generally 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

ANALYSIS

Appellant established the work factors to which she attributed her condition. However, she has failed to establish that these factors caused or contributed to her injury by submitting rationalized medical evidence relating her cervical or right shoulder conditions to her federal employment. Dr. Parisi checked a box indicating that appellant's condition was not causally related to her federal employment. Dr. Suk indicated that appellant had a rotator cuff tendinopathy with a tear of distal supraspinatus tendon. He noted surgery for an anterior acromioplasty and repair of the rotator cuff of the right shoulder on December 2, 2005. However, Dr. Suk did not provide any statement relating the diagnosis or need for surgery to appellant's employment. When asked on a form whether appellant's condition was caused or aggravated by her employment, he neglected to check any box. Although Dr. Chavez noted appellant's work history and indicated that she used her right upper extremity frequently, he did not explain how her diagnosed conditions were caused or aggravated by her employment. Finally, Dr. Breit expressed no opinion on the causation of appellant's multilevel disc bulging and disc herniation.

² *Joe D. Cameron*, 41 ECAB 150 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

³ *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁴ *Solomen Polen*, 51 ECAB 441 (2000); see also *Michael E. Smith*, 50 ECAB 313 (1999).

⁵ *Id.*

An award of compensation may not be based on surmise, conjecture, speculation or upon appellant's own belief that there is causal relationship between his claimed condition and his employment.⁶ To establish causal relationship, appellant must submit a physician's report in which the physician reviews the employment factors identified by appellant as causing his condition and, taking these factors into consideration as well as findings upon examination, state whether the employment injury caused or aggravated the diagnosed conditions and present medical rationale in support of his or her opinion.⁷ Appellant failed to submit such evidence in this case. Therefore, she has failed to discharge her burden of proof to establish that she sustained an injury due to the implicated factors of her federal employment.

CONCLUSION

The Board finds that appellant has not established an injury in the performance of duty causally related to factors of her federal employment.

ORDER

IT IS HEREBY ORDERED THAT the decisions of the Office of Workers' Compensation Programs dated May 26 and March 16, 2006 be affirmed.

Issued: October 16, 2006
Washington, DC

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

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

James A. Haynes, Alternate Judge
Employees' Compensation Appeals Board

⁶ *Robert A. Boyle*, 54 ECAB 381 (2003); *Patricia J. Glenn*, 53 ECAB 159 (2001).

⁷ *Calvin E. King*, 51 ECAB 394 (2000).