United States Department of Labor
Employees' Compensation Appeals Board

S.B., Appellant	)	
and	)	**Docket No. 06-1701**
	)	**Issued: October 23, 2006**
U.S. POSTAL SERVICE, GREEN BAY POST OFFICE, Green Bay, WI, Employer	)	

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
DAVID S. GERSON, Judge
MICHAEL E. GROOM, Alternate Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On July 19, 2006 appellant filed a timely appeal from an Office of Workers' Compensation Programs' April 18, 2006 merit decision denying her claim for compensation. 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 established that she sustained a neck injury in the performance of duty, causally related to factors of her federal employment.

FACTUAL HISTORY

On February 10, 2006 appellant, a 50-year-old window clerk/sales associate, filed an occupational disease claim (Form CA-2) alleging a neck injury. She became aware of her illness on November 1, 2005 and that her condition may be employment related on January 12, 2006. According to appellant, her cash drawer at her workstation was lowered in February 2004. She started noticing neck pain in December 2005 during a busy time at work. On January 11, 2006 a

coworker suggested that her neck pain may be the result of her workstation. On January 12, 2006 appellant worked at a different workstation and experienced a decrease in her neck pain. She continued to work at the new station, but, while the pain decreased, it did not go away.

In a medical report, dated February 1, 2006, appellant's chiropractor, Dr. Corey M. Sandquist, diagnosed cervical sprain/strain/subluxation. He stated that the alleged neck injury was a result of appellant's employment. According to Dr. Sandquist, repeatedly reaching down for the cash drawer caused extreme cervical spine flexion because the cash drawer was too low for appellant. This repeated motion resulted in appellant's injury. A box in the report asking whether comparative x-rays were taken was not checked either yes or no.

By letter dated February 16, 2006, the Office advised appellant that she needed to submit additional evidence with respect to her claim, including a comprehensive medical report from her treating physician. Appellant was provided 30 days to submit a diagnosis and an explanation of how her condition was caused by her federal employment. She was also advised that treatment by a chiropractor was restricted to treatment for subluxation of the spine as verified by x-ray.[1] A second letter from the Office, dated February 16, 2006, emphasized that x-ray information was lacking including whether x-rays were taken, findings and a diagnosis based on the x-rays, and whether the findings were work related.

On February 17, 2006 the Office received an unsigned x-ray report dated January 23, 2006. The report related that there were no fractures, the spine was generally in good alignment and bone density appeared normal. The report did note that the cervical spine appeared anterior to the normal gravitational line and that there was "S hypo" lordosis of the cervical spine. The Office received a duplicate of the report on March 6, 2006.

The Office also received an "Assessment -- Diagnosis Matrix" on February 17, 2006.[2] The assessment indicates that appellant was suffering from unspecified subluxation cervical vertebrae and that x-rays were ordered. The Office received a duplicate of this report on March 6, 2006.

By decision dated April 18, 2006, the Office denied appellant's claim on the grounds that she failed to establish that she sustained an injury in the performance of duty. The Office explained that the January 23, 2006 x-ray report failed to demonstrate a subluxation of the spine.

LEGAL PRECEDENT

An occupational disease or illness means a condition produced in the work environment over a period longer than a single workday or shift by such factors as systemic infection,

[1] *See* 5 U.S.C. § 8101(2).

[2] It is not clear who did the assessment because it is not signed and the logo on the report is not informative. It is assumed that the assessment was developed in appellant's chiropractor's office because he was the only medical doctor seen by appellant.

continued or repeated stress or strain or other continued or repeated conditions or factors of the work environment.[3]

To establish that an injury was sustained in the performance of duty in an occupational disease claim, an employee must submit the following: (1) medical evidence establishing the presence or existence of a condition for which compensation is claimed; (2) a factual statement identifying employment factors alleged to have caused or contributed to the condition; and (3) medical evidence establishing that the employment factors identified by the employee were the proximate cause of the condition or illness, 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 employee.[4]

Causal relationship is a medical issue and the medical evidence required to establish causal relationship is rationalized medical evidence. Rationalized medical evidence is medical evidence which includes a physician's rationalized medical opinion on the issue of whether there is a causal relationship between an employee's diagnosed conditions and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the employee, must be one of reasonable medical certainty and must be supported by medical rationale explaining the nature of the relationship between the diagnosed conditions and the specific employment factors identified by the employee.[5] The mere fact that a disease manifests itself during a period of employment does not raise an inference that there is a causal relationship between the two. Neither the fact that the disease became apparent during a period of employment, nor the belief of appellant that the disease was caused or aggravated by employment conditions, is sufficient to establish causal relation.[6]

The Board notes that section 8101(2) of the Federal Employees' Compensation Act provides that the term physician includes chiropractors only to the extent that their reimbursable services are limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by x-ray to exist and subject to regulation by the Secretary.[7] Under 20 C.F.R. § 10.5(bb), subluxation is "an incomplete dislocation, off-centering, misalignment, fixation or abnormal spacing of the vertebrae which must be demonstrable on any x-ray film to an individual trained in the reading of x-rays."

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[3] *William Taylor*, 50 ECAB 234 (1999); *see also* 20 C.F.R. § 10.5(q).

[4] *Donna L. Mims*, 53 ECAB 730 (2002).

[5] *Id*.

[6] *Id*.

[7] 5 U.S.C. § 8101(2). 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. The term 'physician' includes chiropractors only to the extent that their reimbursable services are limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by x-ray to exist and subject to regulation by the Secretary." *See Merton J. Sills*, 39 ECAB 572, 575 (1988).

ANALYSIS

There is no dispute that appellant used a cash drawer in the performance of duty in a repetitive manner. However, the Board finds that she failed to submit sufficient medical evidence to establish that her neck condition was employment related. Appellant submitted a February 1, 2006 medical report from Dr. Sandquist, a chiropractor. The report from Dr. Sandquist is not considered probative medical evidence in that a chiropractor is considered a physician for purposes of the Act only where he diagnoses subluxation by x-ray.[8] There is no indication in the record that Dr. Sandquist based his diagnosis on an x-ray. An x-ray supporting a diagnosis of spinal subluxation is not mentioned in the report and the box asking whether comparative x-rays were taken is not checked. The January 6, 2006 x-ray report received by the Office does not diagnose a subluxation. Because the documentation from Dr. Sandquist does not provide a diagnosis of a spinal subluxation as demonstrated by x-ray, he is not considered a "physician" as defined under the Act. As such, his report does not constitute competent medical opinion. The Board will therefore affirm the Office's decision denying appellant's claim for neck injury.

CONCLUSION

The Board finds that appellant has failed to meet her burden of proof to establish that she sustained a neck injury in the performance of duty causally related to factors of her federal employment.

[8] *Jacqueline M. Nixon-Steward*, 52 ECAB 140 (2000).

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated April 18, 2006 is affirmed.

Issued: October 23, 2006
Washington, DC

David S. Gerson, Judge
Employees' Compensation Appeals Board

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

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