

**United States Department of Labor  
Employees' Compensation Appeals Board**

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G.A., Appellant )

and )

**DEPARTMENT OF VETERANS AFFAIRS,**  
**VETERANS ADMINISTRATION MEDICAL**  
**CENTER, New Orleans, LA, Employer** )

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**Docket No. 06-1304**  
**Issued: September 11, 2006**

*Appearances:*  
G.A., *pro se*  
Office of the 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 May 22, 2006 appellant filed a timely appeal from the Office of Workers' Compensation Programs' March 24, 2006 denial of his claim. Under 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 sustained an umbilical hernia while in the performance of duty on September 21, 2005.

**FACTUAL HISTORY**

Appellant, a 45-year-old police officer, filed a claim for benefits on December 19, 2005, alleging that he sustained an umbilical hernia while moving heavy supplies on September 21, 2005. He submitted a November 11, 2005 report from Dr. Raymond J. Joehl, a Board-certified surgeon, who performed surgery on November 10, 2005 to repair an umbilical hernia. Dr. Joehl stated that "Patient is a police officer who reports that while working he noticed a

new bulge around his umbilicus. It is painful. The bulge spontaneously reduces when he is lying down.... The patient will be instructed not to do any heavy lifting until he follows up in clinic.”

Appellant also submitted a treatment note/form report dated December 21, 2005. The form contained a checked box indicating that appellant could return to work as of December 21, 2005. The record also contains a work capacity evaluation dated January 31, 2006 which indicated that appellant underwent surgery on November 10, 2005 but had no current limitations. Both reports contained signatures from physicians which are not legible.

On February 21, 2006 the Office advised appellant that it required additional factual and medical evidence to determine whether he was eligible for compensation benefits. The Office asked appellant to submit a comprehensive medical report from his treating physician describing his symptoms and the medical reasons for his condition, and an opinion as to whether his claimed condition was causally related to his federal employment. The Office requested that appellant submit the additional evidence within 30 days.

Appellant submitted a December 20, 2005 Form CA-20 attending physician’s report, with an illegible physician’s signature, reiterating that he had undergone surgery for umbilical hernia repair on November 10, 2005.

By decision dated March 24, 2006, the Office denied appellant’s claim, finding that he failed to submit sufficient medical evidence in support of his claim.

### **LEGAL PRECEDENT**

An employee seeking benefits under the Federal Employees’ Compensation Act<sup>1</sup> has the burden of establishing that 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>2</sup> 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.<sup>3</sup>

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it must first be determined whether a “fact of injury” has been established. First, the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time, place and in the manner alleged.<sup>4</sup> Second, the employee must submit sufficient evidence, generally only in the form of medical evidence, to

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<sup>1</sup> 5 U.S.C. §§ 8101-8193.

<sup>2</sup> *Joe D. Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

<sup>3</sup> *Victor J. Woodhams*, 41 ECAB 345 (1989).

<sup>4</sup> *John J. Carlone*, 41 ECAB 354 (1989).

establish that the employment incident caused a personal injury.<sup>5</sup> The medical evidence required to establish causal relationship is usually rationalized medical 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.<sup>6</sup>

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.<sup>7</sup>

An award of compensation may not be based on surmise, conjecture or speculation. Neither the fact that appellant's condition became apparent during a period of employment nor the belief that her condition was caused, precipitated or aggravated by his employment is sufficient to establish causal relationship.<sup>8</sup> Causal relationship must be established by rationalized medical opinion evidence and appellant failed to submit such evidence.

### ANALYSIS

In this case, it is uncontested that appellant experienced the employment incident at the time, place and in the manner alleged. However, the question of whether an employment incident caused a personal injury generally can be established only by medical evidence.<sup>9</sup> Appellant has not submitted sufficient medical evidence to establish that the employment incident on September 21, 2005 caused a personal injury and resultant disability.

The only medical documents appellant submitted were the November 11, 2005 surgical report from Dr. Joehl and form reports containing illegible signatures. The weight of medical opinion is determined by the opportunity for and thoroughness of examination, the accuracy and completeness of a physician's knowledge of the facts of the case, the medical history provided, the care of analysis manifested and the medical rationale expressed in support of stated conclusions.<sup>10</sup> Dr. Joehl stated that appellant noticed a bulge around his umbilicus while working but did not attribute this condition to any employment-related activity. Although he did present a diagnosis of appellant's condition, he did not discuss how this condition was causally related to the September 21, 2005 work incident. The form reports merely contain notations regarding appellant's condition, indicating that he underwent surgery and recommending that he could return to work without restrictions. There is no evidence of record, therefore, appellant's

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<sup>5</sup> *Id.* For a definition of the term "injury," see 20 C.F.R. § 10.5(a)(14).

<sup>6</sup> *Id.*

<sup>7</sup> See *Joe T. Williams*, 44 ECAB 518, 521 (1993).

<sup>8</sup> *Id.*

<sup>9</sup> *John J. Carlone*, *supra* note 4.

<sup>10</sup> See *Anna C. Leanza*, 48 ECAB 115 (1996).

umbilical hernia is work related. Appellant failed to provide a medical report from a physician which explains how the work incident of September 21, 2005 caused or contributed to the umbilical hernia or necessitated the November 10, 2005 surgery.

The Office advised appellant of the evidence required to establish his claim; however, appellant failed to submit such evidence. Appellant did not provide a medical opinion which describes or explains the medical process through which the September 21, 2005 work incident would have caused the claimed injury. Accordingly, he did not establish that he sustained an umbilical hernia injury in the performance of duty. The Office properly denied appellant's claim for compensation.

**CONCLUSION**

The Board finds that appellant has failed to establish that he sustained an umbilical hernia injury in the performance of duty on September 21, 2005.

**ORDER**

**IT IS HEREBY ORDERED THAT** the March 24, 2006 decision of the Office of Workers' Compensation Programs be affirmed.

Issued: September 11, 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