

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

S.F., Appellant)
and) Docket No. 07-721
DEPARTMENT OF VETERANS AFFAIRS,) Issued: July 6, 2007
VETERANS ADMINISTRATON HOSPITAL,)
Palo Alto, CA, 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 January 22, 2007 appellant filed a timely appeal from an October 18, 2006 decision of the Office of Workers' Compensation Programs in which an Office hearing representative affirmed the March 13, 2006 denial of her traumatic injury claim. 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 met her burden of proof in establishing that she sustained an injury in the performance of duty on December 19, 2005.

FACTUAL HISTORY

On January 4, 2006 appellant, then a 61-year-old registered nurse, filed a traumatic injury claim alleging that she injured her back on December 19, 2005 when she slipped and fell on

water on the floor.¹ She stopped working on December 27, 2005 and returned to work on January 2, 2006.

By letter dated January 26, 2006, the Office requested appellant to submit medical evidence to support her claim.

Appellant submitted a January 23, 2006 report and disability slips dated January 12 and 23 and February 16, 2006 from Dr. Jenny Jasbir Multani, a treating physician, and a January 20, 2006 cervical magnetic resonance imaging (MRI) scan by Dr. Jason Jye-Shern Cheng, a Board-certified diagnostic radiologist. On January 12, 2006 Dr. Multani noted that appellant was totally disabled from April 20, 2005 until January 12, 2006. On January 23, 2006 she diagnosed severe neck pain, arm weakness and headaches and indicated that appellant was totally disabled for the period January 23 to February 15, 2006. In the February 16, 2006 disability slip, Dr. Multani indicated that appellant was scheduled for surgery on February 21, 2006 and she was unsure of the period of her disability. A physical examination revealed lower cervical and bilateral shoulder tenderness, bilateral triceps weakness and “hypoesthesia diffusely from C5 down to C8 dermatomes on the left side.” Dr. Cheng diagnosed “fairly prominent disc disease at multiple levels” with the most prominent findings at C5-6.

By decision dated March 13, 2006, the Office denied appellant’s traumatic injury claim. It found that the record established that appellant slipped and fell on a wet floor on December 19, 2005 and the medical evidence did not establish that her claimed medical condition resulted from the accepted event.

On February 24, 2005 appellant requested an oral hearing before an Office hearing representative which was held on August 8, 2006. She testified that she had sustained back and neck injuries as a result of prior employment injury on February 2, 1999 when a patient pushed a wheelchair, knocking her down.² Appellant testified that she returned to a light-duty job performing clerical duties in May 2000.

Appellant submitted reports from Dr. Multani for the period April 20 to July 21, 2005 and MRI scans dated February 28, 2003, January 20 and May 3, 2006.

On January 5, 2006 Dr. Multani noted that appellant slipped on a wet floor and fell at work on December 19, 2005. Appellant reported an increase “in her underlying neck pain the following day.” A physical examination revealed C5 to C8 hypothesis on the left, absent reflexes bilaterally and tenderness over the shoulders and cervical region. Dr. Multani diagnosed, “Neck pain, increased in severity after the fall,” bilateral upper extremity weakness and bilateral carpal tunnel syndrome. In an April 2, 2006 report, Dr. Multani noted that appellant was doing well following her surgery. On June 30, 2006 Dr. Multani noted that she had been treating appellant since April 20, 2005 and noted the history of appellant’s 1999 and December 19, 2005 employment injuries. She reported that a new MRI scan was performed

¹ At the time of the injury appellant was working a sedentary position.

² The Office accepted this claim for multiple cervical, thoracic and lumbar subluxation, a herniated lumbar disc and consequential depression, which resolved by December 29, 1999.

which “showed significant disc herniation as well as osteophyte formation” at the cervical level.” Dr. Multani opined that appellant’s “symptoms were precipitated by the initial injury in 1999 as evidenced by her MRI scan and the clinical symptoms and exacerbated by her fall in December of 2005.” On July 21, 2006 Dr. Multani repeated her findings.

By decision dated October 18, 2006, an Office hearing representative affirmed the March 13, 2006 decision. He found that appellant failed to supply sufficient medical evidence to establish that she developed a medical condition caused or aggravated by the accepted employment incident of December 19, 2005.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees’ Compensation Act³ has the burden of proof to establish the essential elements of the 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 or specific condition for which compensation is claimed is causally related to the employment injury.⁴ When an employee claims that she sustained a traumatic injury in the performance of duty, she must establish the fact of injury, namely, she must submit sufficient evidence to establish that she experienced a specific event, incident or exposure occurring at the time, place and in the manner alleged and that such event, incident or exposure caused an injury.⁵

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.⁶ 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.⁷

³ 5 U.S.C. §§ 8101-8193.

⁴ *Robert Broome*, 55 ECAB 339 (2004); *see also Elaine Pendleton*, 40 ECAB 1143 (1989).

⁵ *Betty J. Smith*, 54 ECAB 174 (2002); *see also Tracey P. Spillane*, 54 ECAB 608 (2003). 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). *Robert Broome*, *supra* note 4; *see also Elaine Pendleton*, *supra* note 4.

⁶ *Betty J. Smith*, *supra* note 4; *see also Tracey P. Spillane*, *supra* note 5. 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).

⁷ *Katherine J. Friday*, 47 ECAB 591, 594 (1996).

⁷ *John W. Montoya*, 54 ECAB 306 (2003).

ANALYSIS

Appellant alleged that she sustained a back injury on December 19, 2005 when she slipped and fell on a wet floor. At the time of the injury, she was working a limited-duty job resulting from the February 2, 1999 employment injury. The Office accepted that the employment incident occurred as alleged. The issue is whether she submitted medical evidence to establish a causal relationship between the employment incident and her back condition. The Board finds that the medical evidence does not provide a rationalized opinion explaining how appellant's cervical condition and suboccipital headaches were causally related to the work-related incident. Appellant has not established that she sustained a traumatic injury on December 19, 2005.

Appellant submitted reports and disability slips by Dr. Multani. The disability slip dated January 12, 2006 by Dr. Multani is not relevant as it concerns her condition prior to the incident, *i.e.*, noting disability commencing April 20, 2005. The remaining disability slips dated January 23 and February 16, 2006 reveal that appellant was totally disabled for a period of time. Dr. Multani diagnosed severe neck pain, arm weakness and headaches in the January 23, 2006 disability slip and noted that appellant was scheduled for surgery in the February 16, 2006 disability slip. In an April 2, 2006 report, she noted that appellant was doing well following her surgery. However, Dr. Multani did not offer any opinion on causal relationship with respect to the accepted work event of December 19, 2005 in her disability slips or report. In a January 5, 2006 report, she noted the history of appellant's injury and diagnosed, "Neck pain, increased in severity after the fall," bilateral upper extremity weakness and bilateral carpal tunnel syndrome. Dr. Multani, in a June 30, 2006 report, opined that appellant's "symptoms were precipitated by the initial injury in 1999 as evidenced by her MRI scan and the clinical symptoms and exacerbated by appellant's fall in December 2005." In her July 1 2006 report, Dr. Multani opined that appellant's condition was initially caused by a 1999 employment injury and that this condition had been exacerbated by the December 19, 2005 slip and fall. Dr. Multani has provided some support for causal relationship in her June 30 and July 1, 2006 reports. However, these reports are insufficient to establish appellant's claim because Dr. Multani did not provide adequate medical reasoning to explain how any of the diagnosed conditions were caused or aggravated by the December 19, 2005 work incident. Dr. Multani, however, does not provide a full explanation for concluding that the December 19, 2005 work incident caused or aggravated

the diagnosed conditions,⁸ in that she did not explain the medical reasons by which the slip and fall on December 19, 2005 would have caused her cervical disc disease condition to worsen. While she referenced appellant's previous work injury, Dr. Multani did not adequately explain how the December 19, 2005 employment incident would have contributed to any exacerbation of the accepted conditions and why these conditions would not instead have been the result of the natural progression of the preexisting conditions. Dr. Multani's July 21, 2006 report is deficient as it addresses causal relationship with regard to appellant's cervical spine conditions in a manner similar to that contained in the June 30, 2006 report. The Board finds that her reports are of limited probative value as they do not sufficiently explain the medical reasoning supporting her opinion on causal relationship.

The remainder of the medical evidence, including MRI scans of the cervical spine, fail to provide an opinion on the causal relationship between appellant's December 19, 2005 injury and her diagnosed cervical condition. For this reason, this evidence is not sufficient to meet appellant's burden of proof.

Accordingly, appellant has not met her burden of proof in establishing a causal relationship between her diagnosed conditions and the December 19, 2005 incident.

CONCLUSION

Appellant has not met her burden of proof to establish that she sustained a traumatic injury to her back causally related to the December 19, 2005 employment incident.

⁸ In order to be considered rationalized medical evidence, a physician's opinion must be expressed in terms of a reasonable degree of medical certainty and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the claimant's specific employment factors. *Victor J. Woodhams*, 41 ECAB 345, 352 (1989); *Steven S. Saleh*, 55 ECAB 169, 172 (2003). The Board has held that a medical opinion not fortified by medical rationale is of little probative value. *Caroline Thomas*, 51 ECAB 451, 456 n.10 (2000); *Brenda L. Dubuque*, 55 ECAB 212, 217 (2004).

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs' hearing representative dated October 18, 2006 and the Office's decision dated March 13, 2006 are affirmed.

Issued: July 6, 2007
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