United States Department of Labor
Employees' Compensation Appeals Board

I.F., Appellant	)	
and	)	**Docket No. 07-19**
	)	**Issued: March 16, 2007**
DEPARTMENT OF THE INTERIOR, FISH & WILDLIFE SERVICE, Elizabeth, New Jersey, Employer	)	

Appearances:
Thomas Uliase, Esq., for the appellant
Office of the Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Chief Judge
MICHAEL E. GROOM, Alternate Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On October 4, 2006 appellant filed an appeal of a November 7, 2005 decision of an Office of Workers' Compensation Programs' hearing representative, denying her claim for a February 12, 2004 traumatic injury and an April 14, 2006 decision which denied modification of that decision. 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 sustained a traumatic injury on February 12, 2004 causally related to her federal employment.

FACTUAL HISTORY

On February 17, 2004 appellant, then a 51-year-old inspector, filed a traumatic injury claim alleging that on February 12, 2004 she sustained an injury to her low back and shoulder while moving a 50-pound crate. The Office received an undated CA-16 authorization for

examination completed by a nurse practitioner that diagnosed cervical spondylosis.[1] The Office also received two notes dated April 27 and May 25, 2004 respectively from Dr. Marvin E. Friedlander, Board-certified in neurological surgery.[2]

In a letter dated July 30, 2004, the Office informed appellant that further information was needed, specifically a medical narrative from a physician. On August 26, 2004 appellant provided additional factual information about the history of her neck and back condition.

In a September 20, 2004 decision, the Office denied appellant's claim finding that the medical evidence was not sufficient to establish that she sustained an injury as a result of the February 12, 2004 incident.

On September 22, 2004 appellant requested a hearing and submitted further evidence. In a May 13, 2004 report, Dr. John Lyons, a radiologist, diagnosed multilevel degenerative changes and spurs most prominent at C6-7 after reviewing a magnetic resonance imaging (MRI) scan. In an unsigned June 2, 2004 note, Dr. Joseph Corona, Board-certified in orthopedic surgery, diagnosed degenerative changes in the cervical spine. In an unsigned June 2, 2004 letter, he opined that appellant's chronic pain was related to a work accident on June 11, 1993. Dr. Corona recommended that appellant undergo pain injections. The Office received chart notes from him dated October 26, 2004 to February 14, 2005.

A hearing was held before an Office hearing representative on July 20, 2005. On July 22, 2005 appellant submitted additional documents, including several notes from appellant to her supervisor, a formal Equal Employment Opportunity (EEO) complaint filed by appellant, an unsigned October 30, 2001 MRI scan from a radiologist, Dr. Neil Horner, status notes from the Summit Medical Group dated February 2004, signed by a nurse practitioner and a May 6, 2005 narrative report from Dr. Lisa M. Coohil, a physician, who related that she had seen appellant twice for pain and paresthesias of the neck, back and lower extremities. She indicated that appellant's complaints had been ongoing for a period of 10 years and were permanent. In addition Dr. Coohil stated that appellant's MRI scans showed degenerative changes in the cervical spine and that she was restricted in performing physical activities.

By decision dated November 7, 2005, the Office affirmed the September 20, 2004 decision on the grounds that the evidence was insufficient to establish that appellant sustained a medical condition causally related to the reported incident.

By January 12, 2006 letter, appellant requested reconsideration and submitted a narrative report dated August 5, 2005 from Dr. Corona who related that he had experienced joint pain since March involving the left elbow, both shoulders, hips and left wrist. He concluded that

[1] Where an employing establishment properly executes a Form CA-16 which authorizes medical treatment of a medical examination as a result of an employee's claim of sustaining an employment-related injury, the Form CA 16 creates a contractual obligation which does not involve the employee directly, to pay for the cost of the examination or treatment regardless of the action taken on the claim. *Elaine K. Kreymborg*, 41 ECAB 256, 259 (1989); *Pamela A. Harmon*, 37 ECAB 263, 264-65 (1986).

[2] "Dictated but not read"

appellant's condition "sounds like a connective tissue disorder." Dr. Corona recommended that she seek further medical treatment for this condition with Dr. Lieberman.

By decision dated April 14, 2006, the Office denied modification of the November 7, 2005 finding that appellant had not established that she sustained an injury on February 12, 2004 causally related to her federal employment.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act[3] 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 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.[4] 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.[5]

In order to determine whether an employee sustained a traumatic injury in the performance of duty, the Office begins with an analysis of whether "fact of injury" has been established. Generally, fact of injury consists of two components that must be considered in conjunction with one another. The first component to be established is that the employee actually experienced the employment incident that is alleged to have occurred.[6] The second component is whether a personal 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.[7]

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.[8] Causal relationship is a medical question that can generally be resolved only by rationalized medical opinion evidence.[9] Rationalized medical opinion evidence is medical evidence that includes a physician's

[3] 5 U.S.C. §§ 8101-8193

[4] *Joe D. Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

[5] *Victor J. Woodhams*, 41 ECAB 345 (1989).

[6] *Elaine Pendleton*, *supra* note 4.

[7] *Robert Broome*, 55 ECAB 339 (2004); *see also Elaine Pendleton*, *supra* note 4.

[8] *Katharine J. Friday*, 47 ECAB 591, 594 (1996).

[9] *See Robert G. Morris*, 48 ECAB 238 (1996). A physician's opinion on the issue of causal relationship must be based on a complete factual and medical background of the claimant. *Victor J. Woodhams*, *supra* note 5. Additionally, in order to be considered rationalized, the 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. *Id*.

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.[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 causal relationship.[11]

ANALYSIS

Appellant alleged that she sustained a back injury on February 12, 2004 in the performance of her duties while loading a 50-pound crate. The Office accepted that the employment incident occurred as alleged. The issue is whether she submitted medical evidence to establish a causal relation 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 low back or cervical conditions were causally related to the work-related incident. Appellant has not established that she sustained a traumatic injury on February 12, 2004.

Evidence of appellant's condition was submitted in the form of an undated CA-16 form completed by a nurse practitioner who diagnosed cervical spondylitic. A nurse's report is of no probative value as a nurse is not a "physician" as defined under the Act.[12]

In a May 13, 2004 report, Dr. Lyons diagnosed multilevel degenerative changes and spurs, on x-ray evaluation. However, he did not provide an opinion as to the cause. In an April 27, 2004 report, Dr. Friedlander discussed appellant's pain status but did not diagnose a condition or give an opinion as to the cause of her pain. In a May 25, 2004 report, he noted that appellant had multilevel disc degeneration in the cervical and lumbar spine but did not opine as to the cause of her condition. The Board has long held that medical evidence which does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship.[13]

[10] *John W. Montoga*, 54 ECAB 306 (2003).

[11] *Dennis M. Mascarenas*, 49 ECAB 215, 218 (1997).

[12] Under 5 U.S.C. § 8101(2), "physician" includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, and osteopathic practitioners within the scope of their practice as defined by State law.

[13] *Michael E. Smith*, 50 ECAB 313 (1999).

In an unsigned June 2, 2004 letter, Dr. Corona recommended pain injections and opined that they were necessitated by a work accident on June 11, 1993. He did not address the incident of February 12, 2004.[14] Therefore, this report is not of probative value.

In a May 6, 2005 report, Dr. Coohil stated that appellant had experienced ongoing physical complaints for more than 10 years and now had degenerative changes in the cervical spine. Dr. Coohil did not address the February 12, 2004 incident or offer any medical opinion causally relating appellant's current condition to the work incident.

In an August 5, 2005 note, Dr. Corona stated, "I told Ms. Fryzel that the ailment sounds like a connective tissue disorder." He failed to provide a firm medical diagnosis or an opinion as to the causal connection between the accepted work incident and appellant's condition. The note failed to identify her work incident on February 12, 2004. To be of probative value, a physician's opinion must be based on the employment factors identified by appellant as causing her condition and, taking these factors into consideration as well as findings upon examination, state whether the employment incident caused or aggravated the diagnosed conditions. The physician must present medical rationale in support of his or her opinion. Dr. Corona's August 5, 2005 letter is, therefore, of diminished probative value as it is not based on an accurate history.

Appellant believes that an injury resulted from the February 12, 2004 employment incident. 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.[15] 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.[16]

As there is no probative, rationalized medical evidence addressing how appellant's claimed back condition was caused or aggravated by her employment she has not met her burden of proof in establishing that she sustained an injury in the performance of duty causally related to factors of her federal employment.

CONCLUSION

Appellant has not met her burden of proof to establish that she sustained a traumatic injury to her back causally related to the February 12, 2004 employment incident.

[14] Additionally, the Board has held that medical reports lacking proper identification cannot be considered as probative evidence in support of a claim. *D.D.*, 57 ECAB ___ (Docket No. 06-1315, issued September 14, 2006) citing *Calvin E. King*, 51 ECAB 394 (2000).

[15] *D.D.*, *supra* note 14, citing *Robert A. Boyle*, 54 ECAB 381 (2003); *Patricia J. Glann*, 53 ECAB 159 (2001).

[16] *Roy L. Humphrey*, 57 ECAB ___ (Docket No. 05-1928, issued November 23, 2005) citing *Joe T. Williams*, 44 ECAB 518, 521 (1993).

ORDER

IT IS HEREBY ORDERED THAT the April 14, 2006 and November 7, 2005 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: March 16, 2007
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