United States Department of Labor
Employees' Compensation Appeals Board

G.B., Appellant	)	
and	)	**Docket No. 08-111**
	)	**Issued: April 28, 2008**
DEPARTMENT OF VETERANS AFFAIRS, SOUTH TEXAS HEALTHCARE SYSTEM-- AUDIE MURPHY, San Antonio, TX, Employer	)	

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

Case Submitted on the Record

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Chief Judge
DAVID S. GERSON, Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On October 15, 2007 appellant filed a timely appeal from the October 2, 2007 decision of the Office of Workers' Compensation Programs denying his traumatic injury claim.[1] 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 he sustained an injury in the performance of duty on April 12, 2007 as alleged.

[1] The Board notes that the Office issued an amended decision on October 23, 2007, after appellant had filed an appeal with this body. Because jurisdiction over the issues in the October 2, 2007 decision was transferred to the Board at the time of the appeal, the October 23, 2007 decision, which addresses the same issues, is null and void. *See Douglas E. Billings*, 41 ECAB 880 (1990); *see also* 20 C.F.R. § 10.625 (While a case is on appeal to the [Board], [the Office] has no jurisdiction over the claim with respect to the issue or issues on appeal.)

FACTUAL HISTORY

On April 13, 2007 appellant, then a 53-year-old housekeeping aid, filed a traumatic injury claim, Form CA-1, alleging that he felt a sharp pain in his liver or kidney area caused by a laser, taser, or "high powered x-ray," while folding linen on April 12, 2007. The employing establishment controverted the claim, stating that the injury was questionable and psychosomatic. It noted that appellant had been diagnosed with paranoia.

On April 13, 2007 Carlos Hernandez, appellant's supervisor, stated that appellant notified him that he was sitting in the laundry room folding linen the previous day when he felt a sharp pain in the left side of his body somewhere between his liver and kidneys. Appellant stated that the pain was caused by a laser or taser penetrating his body.

On April 13, 2007 Geneveva Contreras, an employee health nurse, reported that appellant experienced a sharp or sudden pain in his left flank area the previous day that felt like he was probed or shocked. She noted that he had no remaining pain. Arlis Harmann, a physician's assistant at the employee health clinic, stated that appellant reported that a coworker attacked his internal organs from the back with a ray gun. He noted paranoid ideation and mental impairment, but offered no diagnosis related to the alleged injury. Mr. Harmann released appellant to work the same day. On April 18, 2007 Dr. James Moore, a Board-certified internist at the employee health clinic, reviewed Mr. Harmann's report. He stated that appellant had a history of "odd behavior" and, based on previous evaluations, recommended that appellant be referred for a psychiatric evaluation.

On May 10, 2007 the Office requested additional medical evidence related to the claimed injury.

By decision dated June 8, 2007, the Office denied appellant's claim. The Office accepted that the employment incident occurred as alleged, but found that the medical evidence did not establish a diagnosis connected with the event.

On August 7, 2007 appellant requested reconsideration. He alleged that the shock he received on April 12, 2007 resulted in a clot near his kidney that was causing blood in his urine. On a July 12, 2007 form, Dr. Hassan Jafary, a Board-certified internist, indicated that appellant had been diagnosed with left-side pain, thoracic muscle spasms, hyperlipidemia, left shoulder pain, cervical radiculopathy, low back pain and hematuria. He stated that appellant had been diagnosed and treated with ultrasound, computerized tomography (CT) scans and medication. On August 24, 2007 Dr. Jafary stated that appellant had a history of low back pain, electrical shock, renal pain, difficulty urinating and hematuria. He diagnosed low back pain and hematuria and, by checking a box, indicated that these conditions were caused or aggravated by appellant's employment. Appellant also provided disability certificates removing him from work on April 30, May 11 and 30 to September 20, 2007. None of the certificates stated the cause of appellant's disability from work.

By decision dated October 2, 2007, the Office modified its June 8, 2007 decision to accept that appellant had established the diagnosis of hematuria. However, it denied appellant's

claim on the grounds that he had not provided rationalized medical evidence supporting a causal relationship between this diagnosed condition and the accepted employment incident.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act[2] 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 filed within the applicable time limitation; that an injury was sustained while in the performance of duty; and that any disability or specific condition for which compensation is claimed is causally related to the employment injury.[3]

In order to determine whether an employee sustained a traumatic injury in the performance of duty, the Office must first determine whether "fact of injury" has been established. "Fact of injury" consists of two components that must be considered in conjunction with one another. The first component is whether the employee actually experienced the employment incident that is alleged to have occurred. The second component of "fact of injury" is whether the incident caused a personal injury, and, generally, this can be established only by medical evidence.[4]

When determining whether the implicated employment factors caused the claimant's diagnosed condition, the Office generally relies on the rationalized medical opinion of a physician.[5] To be rationalized, the opinion must be based on a complete factual and medical background of the claimant,[6] and must be one of reasonable medical certainty,[7] explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.

ANALYSIS

The Office has accepted that appellant sustained a shock on April 12, 2007 and that he was diagnosed with hematuria. The issue is whether appellant has established a causal relationship between the employment incident and the diagnosed condition. As discussed above, this issue must be resolved with rationalized medical evidence.

On July 12, 2007 Dr. Jafary, a Board-certified internist, stated that appellant had been diagnosed with thoracic muscle spasms, hyperlipidemia, cervical radiculopathy, hematuria, and pain in his left side, left shoulder and low back. He gave no opinion as to the cause of any of

[2] 5 U.S.C. §§ 8101-8193.

[3] *Caroline Thomas*, 51 ECAB 451 (2000); *Elaine Pendleton*, 40 ECAB 1143 (1989).

[4] *Ellen L. Noble*, 55 ECAB 530 (2004).

[5] *Conrad Hightower*, 54 ECAB 796 (2003); *Leslie C. Moore*, 52 ECAB 132 (2000).

[6] *Tomas Martinez*, 54 ECAB 623 (2003); *Gary J. Watling*, 52 ECAB 278 (2001).

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

these conditions. On August 24, 2007 Dr. Jafary stated that appellant had a history of low back pain, electrical shock, renal pain, difficulty urinating and hematuria. He diagnosed low back pain and hematuria. By check mark, Dr. Jafary indicated that these conditions were caused or aggravated by appellant's employment. The Board finds that the opinion of Dr. Jafary carries little weight because it provided no medical explanation of how the employment event caused or aggravated the diagnosed hematuria.[8] It is well established that a physician's opinion on causal relationship that consists merely of checking "yes" to a form question, without more in the way of medical rationale, is of diminished probative value.[9] Because Dr. Jafary did not offer a rationalized medical opinion on the cause of appellant's hematuria, the Board finds that his reports are insufficient to establish appellant's claim.

The Board finds that the remainder of the medical evidence in the record also fails to establish appellant's claim. The April 2007 medical reports from the employing establishment's clinic, only one of which was prepared by a physician,[10] made no diagnosis of hematuria or any other condition connected to the accepted employment events. Likewise, the disability slips appellant submitted contained neither a diagnosis nor an explanation of the cause of his disability.

Because appellant has not submitted adequate medical evidence, the Board finds that he has not met his burden of proof to establish a causal relationship between his accepted employment event and his diagnosed hematuria.

CONCLUSION

The Board finds that appellant has not established that he sustained an injury in the performance of duty on April 12, 2007 as alleged.

[8] *See Mary E. Marshall*, 56 ECAB 420 (2005) (medical reports that do not contain rationale on causal relationship have little probative value).

[9] *Cecelia M. Corley*, 56 ECAB 662 (2004).

[10] A medical report may not be considered probative medical evidence unless it can be established that the person completing the report is a "physician" as defined in the Act. *Thomas L. Agee*, 56 ECAB 465 (2005). 5 U.S.C. § 8101(2) defines the term "physician" to include surgeons, podiatrists, dentist, clinical psychologists, optometrists, chiropractors and osteopathic practitioners within the scope of their practice as defined by state law. *Paul Foster*, 56 ECAB 208 (2004).

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation dated October 2, 2007 is affirmed.

Issued: April 28, 2008
Washington, DC

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

David S. Gerson, Judge
Employees' Compensation Appeals Board

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