United States Department of Labor
Employees' Compensation Appeals Board

T.T., Appellant	)	
and	)	**Docket No. 07-1887**
	)	**Issued: January 8, 2008**
DEPARTMENT OF VETERANS AFFAIRS, VETERANS ADMINITRATION MEDICAL CENTER, Chicago, IL, Employer	)	

Appearances:
Alan J. Shapiro, Esq., for the appellant
Office of 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 July 10, 2007 appellant filed a timely appeal from the December 14, 2006 and June 6, 2007 merit decisions of the Office of Workers' Compensation Programs that denied his traumatic injury claim. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of the claim.

ISSUE

The issue is whether appellant met his burden of proof in establishing that he sustained a traumatic injury in the performance of duty.

FACTUAL HISTORY

On July 14, 2006 appellant, then a 50-year-old health technician, filed a traumatic injury claim alleging that he sustained back, head and hip injuries in the performance of duty on March 16, 2006. He was backing up to move a patient to a different room when someone opened a door which struck him. Appellant did not stop work.

On November 13, 2006 the Office requested additional information concerning appellant's claim.

Appellant submitted billing statements and an April 19, 2006 report from Dr. Terry Yochum, a chiropractor, who reviewed x-rays of appellant's pelvic, lumbar, thoracic and cervical spine but did not diagnose spinal subluxation. In a December 13, 2006 attending physician's report, Dr. R. Rawoof, a physiatrist, diagnosed "rule out cervical and lumbar disc pathology, neck pain, back pain, myalgia." He checked a box indicating that appellant's symptoms were caused by employment activity. Dr. Rawoof also indicated that a statement further detailing appellant's course of treatment was attached, but the record does not reflect that the statement was submitted.

By decision dated December 14, 2006, the Office denied appellant's claim on the grounds that the medical evidence submitted was insufficient to establish a causal relationship between appellant's diagnosed condition and the established employment incident.

Appellant requested reconsideration on May 14, 2007. In an April 12, 2006 report, Dr. Rawoof reported examination findings. He noted appellant's complaints of aching and stabbing upper and lower back pain and stiffness and stated that appellant's symptoms were "work related." Dr. Rawoof also indicated that appellant's shoulder and cervical and lumbar spine ranges of motion were abnormal. He diagnosed moderate cervical sprain/strain with associated cervical, moderate lumbar sprain/strain, thoracic sprain/strain and left shoulder sprain/strain with associated spinal myospasm. Dr. Rawoof concluded that appellant's "symptoms and physical findings are consistent with the type of injury he has sustained."

By decision dated June 6, 2007, the Office denied modification of its December 14, 2006 decision, finding that Dr. Rawoof's April 12, 2006 report was insufficient to establish that appellant sustained a traumatic injury in the performance of duty.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act[1] 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 disabilities and/or specific conditions for which compensation is claimed are causally related to the employment injury.[2] 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.[3]

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.

[1] 5 U.S.C. §§ 8101-8193.

[2] *Elaine Pendleton*, 40 ECAB 1143 (1989).

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

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.[4] Second, the employee must submit sufficient evidence, generally only in the form of medical evidence, to establish that the employment incident caused a personal injury.[5]

The medical evidence required to establish causal relationship generally is rationalized medical opinion 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.[6] The opinion of the physician must be based on a complete factual and medical background of the claimant[7] and must be one of reasonable medical certainty[8] explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.[9]

ANALYSIS

The Board finds that appellant did not meet his burden of proof in establishing that he sustained a traumatic injury in the performance of duty. The evidence establishes that the March 16, 2006 employment incident occurred as alleged. However, medical evidence is insufficient to establish a causal relationship between appellant's diagnosed condition and the March 16, 2006 employment incident.

In support of his claim, appellant submitted a report from Dr. Yochum and two reports from Dr. Rawoof. Dr. Yochum's April 19, 2006 report does not constitute probative medical evidence because the chiropractor did not diagnose a spinal subluxation as demonstrated by xray. The Board notes that section 8101(2) defines the term "physician" to include 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."[10] Because Dr. Yochum did not diagnose a subluxation of the spine by x-ray, he is not a physician pursuant to section 8101(2).[11]

---

[4] *John J. Carlone*, 41 ECAB 354 (1989).

[5] *Id.*

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

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

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

[9] *Judy C. Rogers*, 54 ECAB 693 (2003).

[10] 5 U.S.C. § 8101(2); *see also Jay K. Tomokiyo*, 51 ECAB 361 (2000).

[11] *See id.*; *see also Charley V.B. Harley*, 2 ECAB 208 (1949) (where the Board held that medical opinion, in general, can only be given by a physician); *Steven S. Saleh*, 55 ECAB 169 (2003) (where the Board held that causal relationship is a medical question that can generally be resolved only by the furnishing of rationalized medical opinion evidence).

Dr. Rawoof's reports are also insufficient to establish a causal relationship between appellant's diagnosed back condition and the established employment incident. On December 13, 2006 Dr. Rawoof checked a box indicating that appellant's diagnosed condition, "cervical and lumbar disc pathology, neck pain, back pain, myalgia," was caused by an employment activity. However, the Board has held that an opinion on causal relationship which consists only of a physician checking "yes" on a medical form report without further explanation or rationale is of diminished probative value.[12] Dr. Rawoof did not provide additional explanation or rationale supporting that appellant's diagnosed condition was causally related to the employment incident. The April 12, 2006 report from Dr. Rawoof is also insufficient. He noted findings and the results of diagnostic testing, but did not provide sufficient explanation to support causal relationship. Concerning causation, Dr. Rawoof merely wrote "work related." The Board has previously held that a mere conclusory statement, without additional rationale, is insufficient to establish causal relationship.[13] Although Dr. Rawoof stated that appellant's condition was work related and provided examination findings and a diagnosis, he did not explain the reasoning for his opinion on the causal relationship between the diagnosed conditions and the March 16, 2006 employment incident. He stated that appellant's symptoms were "consistent with the type of injury he has sustained" but did not provide a description or statement of appellant's history of injury to describe the injury or provide rationale or reasoning to explain why appellant's symptoms and diagnosed condition would be consistent with the employment incident.

Accordingly, the Board finds that Dr. Rawoof's reports are insufficient to establish that appellant's diagnosed conditions were caused or aggravated by the March 16, 2006 employment incident.

CONCLUSION

The Board finds that appellant did not meet his burden of proof in establishing that he sustained a traumatic injury in the performance of duty.

[12] *Alberta S. Williamson*, 47 ECAB 569 (1996).

[13] *See Jimmie H. Duckett*, 52 ECAB 332 (2001); *Franklin D. Haislah*, 52 ECAB 457 (2001) (where the Board noted that medical reports not containing rationale on causal relationship are entitled to little probative value).

ORDER

IT IS HEREBY ORDERED THAT the June 6, 2007 and December 14, 2006 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: January 8, 2008
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