United States Department of Labor
Employees' Compensation Appeals Board

S.C., Appellant	)	
and	)	**Docket No. 08-496**
	)	**Issued: June 10, 2008**
DEPARTMENT OF HOUSING & URBAN DEVELOPMENT, OFFICE OF HOUSING MANAGEMENT, Washington, DC, 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 December 10, 2007 appellant filed a timely appeal from the Office of Workers' Compensation Programs' merit decision dated May 14, 2007, denying her claim for compensation. 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 an injury in the performance of duty on November 2, 2006.

FACTUAL HISTORY

On November 2, 2006 appellant filed a traumatic injury claim (Form CA-1) alleging that on that date she tripped and twisted her ankle on a slippery hallway floor. Appellant, a contract oversight specialist, described the injury as a twisted ankle and left hip pain. The reverse of the claim form reported appellant was off work from November 3 to 13, 2006.

The medical evidence submitted consisted of a November 3, 2006 note from a physician's assistant that appellant received treatment and should be excused from work November 6 to 10, 2006. By decision dated January 5, 2007, the Office denied the claim for compensation. The Office found an incident was established, but the medical evidence was insufficient to establish the claim.

Appellant requested a review of the written record. She submitted a form report dated November 3, 2006 from the physician's assistant with a history of injury and a diagnosis of ankle pain. In an x-ray report dated November 3, 2006, Dr. Paul Weiner, a radiologist, reported a normal study. Appellant also submitted an undated note stating the patient was seen by a physician's assistant on November 3, 2006 and "I fully agree [with] her findings/diagnosis." The signature is illegible.[1]

By decision dated May 14, 2007, the Office hearing representative affirmed the January 5, 2007 decision. The hearing representative found the medical evidence was insufficient to establish the claim.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act[2] has the burden of establishing that he or she sustained an injury while in the performance of duty.[3] In order to determine whether an employee actually sustained an 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 which must be considered in conjunction with one another. The first component to be established is that the employee actually experienced the employment incident which is alleged to have occurred. The second component is whether the employment incident caused a personal injury, and generally this can be established only by medical evidence.[4]

The Office's procedures recognize that a claim may be accepted without a medical report when the condition is a minor one which can be identified on visual inspection.[5] In clear-cut traumatic injury claims, such as a fall resulting in a broken arm, a physician's affirmative statement is sufficient and no rationalized opinion on causal relationship is needed. In all other traumatic injury claims, a rationalized medical opinion supporting causal relationship is required.[6]

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[1] The letterhead contains physicians Angela Marshall and Betty Siu. Appellant wrote on the note that this was from her doctor and the doctor who signed the original documents along with the physician's assistant.

[2] 5 U.S.C. §§ 8101-8193.

[3] *Melinda C. Epperly*, 45 ECAB 196, 198 (1993); *see also* 20 C.F.R. § 10.115.

[4] *See John J. Carlone*, 41 ECAB 354, 357 (1989).

[5] Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3(d) (June 1995).

[6] *Id.*

Rationalized medical opinion evidence is medical evidence that includes a physician's rationalized opinion on the issue of whether there is a causal relationship between a diagnosed condition and the identified employment factor. The opinion of the physician must be based on a complete factual and medical background, must be of reasonable medical certainty and supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant. The weight of medical evidence is determined by its reliability, its probative value, its convincing quality, the care of the analysis manifested and the medical rationale expressed in support of the physician's opinion.[7]

ANALYSIS

The Office accepted that an incident occurred as alleged on November 2, 2006. Appellant stated that she was walking on a slippery floor, twisted her left ankle and felt left hip pain. The issue is whether the medical evidence is sufficient to establish a diagnosed injury causally related to the employment incident. This is not a case of a minor injury confirmed by visual inspection, or a clear-cut traumatic injury requiring only a physician's affirmative statement. The evidence must include a rationalized medical opinion on causal relationship between a diagnosed condition and the employment incident.

The evidence from the physician's assistant is not competent medical evidence as a physician's assistant is not a physician under 5 U.S.C. § 8101(2).[8] While appellant claimed a physician also signed the reports, the record transmitted to the Board does not confirm this claim. None of the reports from the physician's assistant provides clear evidence of an accompanying signature by a physician.[9] Even if these reports had been signed by a physician, they do not provide a rationalized medical opinion on causal relationship.

The undated note submitted on February 21, 2007 appears to be from a physician, but it is of little probative value. The note does not provide a factual and medical background or a rationalized medical opinion on causal relationship between a diagnosed condition and the November 2, 2006 employment incident. It is appellant's burden of proof to submit the evidence necessary to establish the claim, and the Board finds appellant did not meet her burden of proof in this case.

CONCLUSION

Appellant did not meet her burden of proof to establish an injury in the performance of duty on November 2, 2006.

[7] *Jennifer Atkerson,* 55 ECAB 317, 319 (2004).

[8] *George H. Clark,* 56 ECAB 162 (2004).

[9] The November 3, 2006 form report contains an unidentified mark, but it is not clear that this was a physician's signature.

ORDER

IT IS HEREBY ORDERED THAT the decisions of the Office of Workers' Compensation Programs dated May 14 and January 5, 2007 are affirmed.

Issued: June 10, 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