United States Department of Labor
Employees' Compensation Appeals Board

J.J., Appellant	)	
	)	**Docket No. 08-548**
and	)	**Issued: June 13, 2008**
	)	
U.S. POSTAL SERVICE, POST OFFICE, Little Rock, AR, Employer	)	

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

Case Submitted on the Record

DECISION AND ORDER

Before:
DAVID S. GERSON, Judge
COLLEEN DUFFY KIKO, Judge
MICHAEL E. GROOM, Alternate Judge

JURISDICTION

On December 19, 2007 appellant filed a timely appeal from the Office of Workers' Compensation Programs' merit decision dated October 19, 2007 which denied appellant's claim for a traumatic injury. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of the case.

ISSUE

The issue is whether appellant has met her burden of proof in establishing that she sustained injury on August 13, 2007.

FACTUAL HISTORY

On August 15, 2007 appellant, then a 48-year-old rural carrier, filed a claim alleging that on August 13, 2007 she sustained injury to her leg, arm and back when her mail truck flipped over. Appellant stopped work on August 13, 2007. She returned to light duty on September 7, 2007 and to full duty on September 12, 2007.

In support of her claim, appellant submitted an August 13, 2007 Arkansas Motor Vehicle Crash Report, which noted that she reached down to retrieve mail from the floor board of her vehicle and drove off the roadway and the vehicle flipped over. The report noted that appellant was transported by emergency services to Jefferson Regional Medical Center. A witness statement confirmed that appellant's truck flipped over and landed in a ditch. Appellant submitted duty status reports from Dr. Justiss Lindsey, a Board-certified family practitioner, dated August 16 and 22, 2007. He provided clinical findings of left lower extremity weakness and left leg swelling and recommended two weeks of physical therapy. A diagnosis on the August 16, 2007 report is not legible. Dr. Lindsey advised that appellant was totally disabled. On September 4, 2007 he noted clinical findings of right lower extremity contusions and noted that the diagnosis was due to the injury. Dr. Lindsey advised that appellant could resume light-duty work on September 3, 2007, subject to restrictions.

By letter dated September 17, 2007, the Office advised appellant of the factual and medical evidence needed to establish her claim. I requested that she submit a comprehensive medical report from her treating physician which included a reasoned explanation as to how the specific work factors or incidents identified by appellant had contributed to her claimed injuries.

Appellant resubmitted the duty status reports from Dr. Lindsey which were previously of record. On September 11, 2007 he returned appellant to work full time without restrictions.

In a decision dated October 19, 2007, the Office denied appellant's claim on the grounds that the medical evidence was not sufficient to establish that she sustained an injury related to the August 13, 2007 motor vehicle accident.[1]

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 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. 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]

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.[4] The second

[1] 5 U.S.C. §§ 8101-8193.

[2] *Id.*

[3] *Gary J. Watling*, 52 ECAB 357 (2001).

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

component is whether the employment incident caused a personal injury and generally can be established only by medical evidence. To establish a causal relationship between the condition, as well as any attendant disability claimed and the employment event or incident, the employee must submit rationalized medical opinion evidence, based on a complete factual and medical background, supporting such a causal relationship.[5]

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. The opinion of the physician 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 specific employment factors identified by the claimant.[6] The weight of medical evidence is determined by its reliability, its probative value, its convincing quality, the care of analysis manifested and the medical rationale expressed in support of the physician's opinion.[7]

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.[8] 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.[9]

ANALYSIS

The Office properly found that the August 13, 2007 motor vehicle incident occurred as alleged. The Board finds, however, that the medical evidence is insufficient to establish that appellant sustained an injury causally related to the August 13, 2007 incident. On September 17, 2007 the Office advised appellant of the medical evidence needed to establish her claim. Appellant did not submit a rationalized medical report from an attending physician addressing how the motor vehicle accident caused or contributed to an injury.

The duty status reports of Dr. Lindsey noted clinical findings of left lower extremity weakness and left leg swelling and recommended physical therapy. He advised that appellant was totally disabled. However, Dr. Lindsey did not provide any specific diagnosis. In an undated return to work note, he noted treating appellant from August 22 to September 3, 2007. Dr. Lindsey's reports are insufficient to establish the claim as he did not address how the

[5] *Id*.

[6] *Leslie C. Moore*, 52 ECAB 132 (2000).

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

[8] Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3(d**)** (July 2000).

[9] *Id.*

August 13, 2007 accident cause or contributed to any specific condition or disability.[10] Therefore, these reports are insufficient to meet appellant's burden of proof.

On September 4, 2007 Dr. Lindsey noted clinical findings of right lower extremity contusions and advised that appellant could resume light-duty work subject to restrictions. On September 11, 2007 he returned appellant to work full time without restrictions. However, as noted, these reports did not provide a history of injury or specifically address whether appellant's motor vehicle accident caused a diagnosed medical condition.[11] Therefore, these reports are insufficient to meet appellant's burden of proof.

The Office procedures recognize that 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. The facts of this case do not provide for such a situation as there was no firm diagnosis or records of appellant's initial medical treatment on August 13, 2007 at Jefferson Regional Medical Center. Appellant has not submitted a reasoned medical opinion on causal relation between a diagnosed condition and the accepted work-related incident.

An award of compensation may not be based on surmise, conjecture or speculation. Neither the fact that appellant's condition became apparent during a period of employment nor the belief that her condition was caused, precipitated or aggravated by her employment is sufficient to establish causal relationship.[12] Causal relationships must be established by rationalized medical opinion evidence. Appellant failed to submit such evidence and the Office therefore properly denied appellant's claim for compensation.

CONCLUSION

The Board finds that appellant failed to meet her burden of proof to establish that she sustained leg, back and arm injury causally related to her August 13, 2007 employment incident.[13]

[10] *A.D.*, 58 ECAB ___ (Docket No. 06-1183, issued November 14, 2006) (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).

[11] *Id.*

[12] *See Dennis M. Mascarenas*, 49 ECAB 215 (1997).

[13] After the October 19, 2007 Office decision appellant submitted additional evidence. However, the Board may not consider new evidence on appeal; *see* 20 C.F.R. § 501.2(c). However, this does not preclude appellant from requesting reconsideration from the Office and submitting additional evidence in support of her reconsideration request.

ORDER

IT IS HEREBY ORDERED THAT the October 19, 2007 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: June 13, 2008
Washington, DC

David S. Gerson, Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board