



By letter dated August 30, 2007, the Office advised appellant that the evidence submitted was insufficient to establish that she had sustained a traumatic injury in the performance of duty. It requested additional information, including medical evidence providing a diagnosis and a physician's opinion explaining a causal relationship between the diagnosed condition and the alleged August 21, 2007 accident.

The record contains a September 19, 2007 statement from the employing establishment reflecting that appellant was driving a government-owned vehicle when she was involved in an automobile accident on August 21, 2007. The employing establishment also stated that appellant was on official business at the time the accident occurred.

Appellant submitted an August 21, 2007 accident report, photographs of the accident scene and the damaged vehicle, and an August 21, 2007 statement from appellant, reflecting that her vehicle was hit in the driver's side by a red truck, which left the scene of the accident.

By decision dated October 5, 2007, the Office denied appellant's traumatic injury claim on the grounds that she failed to establish that her claimed condition was caused by factors of employment as alleged. The Office accepted that the incident occurred as alleged, but found that she had submitted no medical evidence which provided a diagnosis that could be connected to the accepted event.<sup>1</sup>

### **LEGAL PRECEDENT**

An employee seeking benefits under the Federal Employees' Compensation Act has the burden of proof to establish the essential elements of the 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 or specific condition for which compensation is claimed is causally related to the employment injury.<sup>2</sup> When an employee claims that she sustained a traumatic injury in the performance of duty, she must establish the "fact of injury," namely, she must submit sufficient evidence to establish that she experienced a specific event, incident or exposure occurring at the time, place and in the manner alleged, and that such event, incident or exposure caused an injury.<sup>3</sup>

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

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<sup>1</sup> The Board notes that appellant submitted additional evidence after the Office rendered its November 18, 2005 decision. The Board's jurisdiction is limited to reviewing the evidence that was before the Office at the time of its final decision. Therefore, this additional evidence cannot be considered by the Board. 20 C.F.R. § 501.2(c); *Dennis E. Maddy*, 47 ECAB 259 (1995); *James C. Campbell*, 5 ECAB 35, 36 n.2 (1952). Appellant may submit this evidence to the Office, together with a formal request for reconsideration, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. § 10.606(b)(2).

<sup>2</sup> *Robert Broome*, 55 ECAB 339 (2004); *see also Elaine Pendleton*, 40 ECAB 1143 (1989).

<sup>3</sup> *Betty J. Smith*, 54 ECAB 174 (2002); *see also Tracey P. Spillane*, 54 ECAB 608 (2003). The term "injury" as defined by the Act, refers to a disease proximately caused by the employment. 5 U.S.C. § 8101(5). *See* 20 C.F.R. § 10.5(q), (ee).

specific employment incident or to specific conditions of employment.<sup>4</sup> Causal relationship is a medical issue, and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence that includes a physician's 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.<sup>5</sup>

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 a causal relationship.<sup>6</sup>

### **ANALYSIS**

The Office accepted that appellant was a federal employee, that she timely filed her claim for compensation benefits, and that the workplace incident occurred as alleged. The issue, therefore, is whether she has submitted sufficient medical evidence to establish that the employment incident caused an injury. Appellant submitted no medical evidence in support of her claim prior to the Office's October 5, 2007 decision. Therefore, she failed to establish a *prima facie* claim for compensation.

An award of compensation may not be based on surmise, conjecture, speculation, or upon appellant's own belief that there is a causal relationship between her claimed condition and her employment.<sup>7</sup> To establish causal relationship, she must submit a physician's report in which the physician reviews those factors of employment identified by her as causing her condition and, taking these factors into consideration, as well as findings upon examination and appellant's medical history, explain how these employment factors caused or aggravated any diagnosed condition, and present medical rationale in support of his opinion.<sup>8</sup> Appellant failed to submit such evidence and, therefore, failed to satisfy her burden of proof. The Board finds that the Office properly denied her claim for benefits under the Act.

### **CONCLUSION**

Appellant has not met her burden of proof to establish that she sustained a traumatic injury in the performance of duty on August 21, 2007.

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<sup>4</sup> *Katherine J. Friday*, 47 ECAB 591, 594 (1996).

<sup>5</sup> *John W. Montoya*, 54 ECAB 306 (2003).

<sup>6</sup> *Dennis M. Mascarenas*, 49 ECAB 215, 218 (1997).

<sup>7</sup> *Patricia J. Glenn*, 53 ECAB 159 (2001).

<sup>8</sup> *Robert Broome*, *supra* note 2.

**ORDER**

**IT IS HEREBY ORDERED THAT** the October 5, 2007 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: June 11, 2008  
Washington, DC

David S. Gerson, Judge  
Employees' Compensation Appeals Board

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

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