

November 7, 2007. In support of her claim, she submitted a report dated November 8, 2007 from Dr. John Q.A. Webb, a family practitioner, noting that appellant reported an insect bite on her right index finger. Dr. Webb stated that there was no evidence of a bite site, no redness or swelling. Appellant had no streaking up the arms or enlarged lymph glands. Under diagnosis he stated, “No evidence of threatening bite at this particular time.” Dr. Webb did not offer any treatment.

In a letter dated December 27, 2007, the Office requested additional factual and medical evidence in support of appellant’s claim. It noted that Dr. Webb’s report did not provide a diagnosis of a condition resulting from her alleged employment injury. The Office allowed 30 days for a response.

Appellant submitted a Form CA-16 authorization for examination and/or treatment signed by her supervisor on November 29, 2007 for treatment of the insect bite on the right hand.¹

By decision dated January 28, 2008, the Office denied appellant’s claim on the grounds that she failed to establish that the alleged incident took place in the manner reported. It also stated that there was no medical evidence providing a diagnosis which could be connected to the described event.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees’ Compensation Act² 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 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

The Office’s regulations define a traumatic injury as a condition of the body caused by a specific event or incident, or series of events or incidents, within a single workday or shift. Such condition must be caused by external force, including stress or strain, which is identifiable as to time and place of occurrence and member or function of the body affected.⁴ To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it must

¹ The Board notes that the employing establishment issued a Form CA-16. A properly executed Form CA-16 creates a contractual obligation, which does not involve the employee directly, to pay the cost of the examination or treatment regardless of the action taken on the claim. *See Elaine M. Kreyborg*, 41 ECAB 256, 259 (1989). The Office did not address this issue in its January 28, 2008 decision.

² 5 U.S.C. §§ 8101-8193.

³ *Jussara L. Arcanjo*, 55 ECAB 281, 283 (2004).

⁴ 20 C.F.R. § 10.5(ee).

first be determined whether a “fact of injury” has been established. 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. An employee has the burden of establishing the occurrence of an injury at the time, place and in the manner alleged, by the preponderance of the reliable, probative and substantial evidence. An injury does not have to be confirmed by eyewitnesses in order to establish the fact that the employee sustained an injury in the performance of duty, but the employee’s statements must be consistent with the surrounding facts and circumstances and his subsequent course of action. An employee has not met her burden of proof where there are such inconsistencies in the evidence as to cast serious doubt upon the validity of the claim.⁵

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, such as an insect sting or animal bite.⁶ 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.⁷ The medical evidence required to establish causal relationship is usually rationalized medical 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. 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.⁸

ANALYSIS

The allegation in this case, is that on or about November 7, 2007 appellant was bitten on the left hand by a small creature such as a spider or an insect. Although she cannot identify the offending creature, that in itself would not preclude establishment of the claim.⁹ In similar cases involving an alleged bite by a spider or insect, the Board has looked at the surrounding factual and medical evidence to determine if it is sufficient to establish that the claimant was bitten while in the performance of duty.¹⁰

Appellant alleged that she was bitten on her right hand. There is nothing in the record consistent with this allegation. As noted above, the Office’s procedures do consider the possibility that an insect bite could be established even without medical evidence. In this case,

⁵ *Id.*

⁶ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3(d) (June 1995).

⁷ *Id.*

⁸ *Id.*

⁹ *See, e.g., Doyle W. Ricketts*, 48 ECAB 167 (1996).

¹⁰ *Id.*; *see also Linda S. Christian*, 46 ECAB 598 (1995).

the factual evidence is not sufficient to establish a spider or insect bite. Although appellant stated that she was bitten by a bug, Dr. Webb, a family practitioner, was unable to confirm her statement on medical examination the day following the alleged insect bite. Dr. Webb stated that there was no evidence of a bite site. Furthermore, he did not provide any diagnosis of a right hand condition. The Board accordingly finds that the evidence of record is insufficient to establish that appellant sustained a bite from a spider, insect or other creature in the while in the performance of duty. The Office properly found that an injury in the performance of duty had not been established in this case.

CONCLUSION

The evidence in the record does not establish a right hand injury in the performance of duty on November 7, 2007.

ORDER

IT IS HEREBY ORDERED THAT the January 28, 2008 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: September 23, 2008
Washington, DC

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

David S. Gerson, Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board