United States Department of Labor
Employees' Compensation Appeals Board

K.S., Appellant	)	
and	)	**Docket No. 09-468**
	)	**Issued: August 21, 2009**
DEPARTMENT OF HOUSING & URBAN DEVELOPMENT, Alexandria, VA, 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
COLLEEN DUFFY KIKO, Judge

JURISDICTION

On December 8, 2008 appellant filed a timely appeal of the decision of the Office of Workers' Compensation Programs dated December 1, 2008 denying her 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 this case.

ISSUE

The issue is whether appellant established that she sustained an injury in the performance of duty on September 26, 2008. On appeal, she asks that her x-ray bills be paid.

FACTUAL HISTORY

On October 3, 2008 appellant, then a 58-year-old support services specialist, filed a traumatic injury claim (Form CA-1) alleging that on September 26, 2008, she tripped and fell into an elevator that was not even with the building floor thereby injuring her left elbow. On the reverse of the claim form, appellant's supervisor indicated that appellant was seen in the emergency room that day at North Shore Medical Center, Union Hospital by Dr. Andrew J.

Barton, a Board-certified emergency medicine specialist. The supervisor also completed a Form CA-17, duty status report, delineating appellant's work requirements.

By letter dated October 21, 2008, the Office advised appellant to submit medical evidence in support of her claim.

In response, appellant submitted emergency room records for the September 26, 2008 admission. Dr. Barton reported a history of a slip and fall earlier that day where appellant landed on her left elbow and that since that time she has had pain in her left elbow. He noted the results of physical examination and the results of the x-rays taken of the left elbow which showed "no definitive fracture." Dr. Barton also noted, "There is an anterior fat pad sign, fracture. However, this would not be clinically significant." He placed appellant's arm in a sling. The emergency records also include a report of x-rays taken on the same date by Dr. Alvin Yamamoto, a radiologist, at Dr. Barton's request, evincing "displacement of the anterior fat pad without evidence of fracture deformity. An occult fracture or soft tissue injury is suspected."

By decision dated December 1, 2008, the Office found that the incident occurred as alleged. However, appellant's claim was denied as the medical evidence did not provide a diagnosis other than "left elbow injury." The Office found that in the absence of medical opinion evidence containing a diagnosis in connection with the workplace exposure, appellant failed to establish that she sustained an injury on September 26, 2008 as alleged.

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 an 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.[2]

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it must first be determined whether the fact of injury has been established. There are two components involved in establishing the fact of injury. First, the employee must submit sufficient evidence to establish that she actually experienced the employment incident at the time, place and in the manner alleged.[3] Second, the employee must submit evidence, in the form of medical evidence, to establish that the employment incident caused a personal injury.[4]

[1] 5 U.S.C. § 8122(a).

[2] *Id.*

[3] *John J. Carlone*, 41 ECAB 345 (1989).

[4] *Shirley A. Temple*, 48 ECAB 404 (1997).

Causal relationship is a medical issue[5] 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 of the physician must be based on a complete factual and medical background of the claimant,[6] must be one of reasonable medical certainty,[7] 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.[8]

ANALYSIS

Appellant filed a claim alleging that she was injured on September 26, 2008 when she tripped on an elevator. The Office accepted that the September 26, 2008 incident occurred at the time, place and in the manner alleged. The Board must therefore consider on appeal whether appellant sustained an injury causally related to the September 26, 2008 employment incident.

In support of her claim, appellant submitted emergency room records from her emergency visit of September 26, 2008 by Dr. Barton. These records do not explain how the employment-related incident caused any diagnosis and any resultant disability or need for treatment. There is no medical evidence confirming its origin and its relationship to the accepted employment incident.

As the Board noted earlier, appellant must submit a narrative medical report from a physician with a complete factual and medical history which explains how the September 26, 2008 work incident caused a diagnosed medical condition. The physician's medical rationale explaining causal relationship is critical to appellant's claim. As appellant has not provided a medical opinion finding a specific diagnosis and explaining how this condition is related to the September 26, 2008 employment incident, appellant has not met her burden of proof in establishing the claim.

Appellant requests payment or reimbursement of her x-ray bills. In order to be entitled to reimbursement of medical expenses it must be shown that the expenditures were incurred for treatment of the effects of an employment-related injury or condition.[9] Proof of causal relationship in a case such as this must include supporting rationalized medical evidence.[10] As found above, there is no rationalized medical evidence establishing that the incident caused an injury. The Board notes that the employing establishment may authorize medical treatment in

[5] *Mary J. Briggs*, 37 ECAB 578 (1986).

[6] *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

[7] *See Morris Scanlon*, 11 ECAB 384, 385 (1960).

[8] *See William E. Enright*, 31 ECAB 426, 430 (1980).

[9] *Bertha L. Arnold*, 38 ECAB 282, 284 (1986).

[10] *Vicky C. Randall*, 51 ECAB 357 (2000); *Zane H. Cassell*, 32 ECAB 1537, 1540-41 (1981*); John E. Benton*, 15 ECAB 48, 49 (1963).

emergency situations with the use of a Form CA-16 which would form a contractual obligation on the part of the Office to pay for appellant's medical expenses for the period specified on the form.[11] The Board further notes, however, that the employing establishment did not issue a Form CA-16 in this case but instead issued a Form CA-17 which, unless intended by the employing establishment to authorize medical treatment in emergency situations, does not otherwise form a contractual obligation.[12] The Board finds that there is no evidence currently of record which establishes that the Form CA-17 was to serve as authorization for medical treatment. It was devoid of both the name of a medical institution and physician and only contained appellant's work requirements and contained no reference to the authorization of medical treatment.[13]

CONCLUSION

The Board finds that appellant has not established that she sustained an injury in the performance of duty on September 26, 2008, as alleged.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated December 1, 2008 is affirmed.

Issued: August 21, 2009
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

[11] *See* 20 C.F.R. § 10.300.

[12] *Compare George Witte*, 38 ECAB 585, 588 (1987) where the Board remanded the case for a determination as to whether the employing establishment intended the CA-17 to serve as an authorization for medical treatment.

[13] The CA-17 provides in pertinent part: "This form is provided for the purpose of obtaining a duty status report for the employee named below. This request does not constitute authorization for payment of medical expenses by the [Office]...."