

By letter dated November 10, 2008, the Office advised appellant that the evidence submitted was insufficient to establish that he 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 October 28, 2008 incident.

In a decision dated December 12, 2008, the Office denied appellant's claim. It accepted that the incident occurred as alleged, but found that he had submitted no medical evidence which provided a diagnosis that could be connected to the accepted event.¹

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.² When an employee claims that she sustained a traumatic injury in the performance of duty, he must establish the "fact of injury," namely, he must submit sufficient evidence to establish that he 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.³

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 specific employment incident or to specific conditions of employment.⁴ 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

¹ 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).

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

³ *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).

⁴ *Katherine J. Friday*, 47 ECAB 591, 594 (1996).

rationale explaining the nature of the relationship between the diagnosed condition and the established incident, or factor of employment.⁵

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.⁶

ANALYSIS

The Office accepted that appellant was a federal employee, that he timely filed his claim for compensation benefits, and that the workplace incident occurred as alleged. The issue, therefore, is whether he has submitted sufficient medical evidence to establish that the employment incident caused an injury. Appellant submitted no medical evidence in support of his claim prior to the Office's December 12, 2008 decision. Therefore, he 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 his claimed condition and his employment.⁷ To establish causal relationship, he must submit a physician's report in which the physician reviews those factors of employment identified by him as causing his 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.⁸ Appellant failed to submit such evidence and, therefore, failed to satisfy his burden of proof. The Board finds that the Office properly denied his claim for benefits under the Act.

CONCLUSION

Appellant has not met his burden of proof to establish that he sustained a traumatic injury in the performance of duty on October 28, 2008.

⁵ *John W. Montoya*, 54 ECAB 306 (2003).

⁶ *Dennis M. Mascarenas*, 49 ECAB 215, 218 (1997).

⁷ *Patricia J. Glenn*, 53 ECAB 159 (2001).

⁸ *Robert Broome*, *supra* note 2.

ORDER

IT IS HEREBY ORDERED THAT the December 12, 2008 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: December 4, 2009
Washington, DC

David S. Gerson, Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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