

In support of her claim, appellant submitted an unsigned Urgent Care Patient Encounter form dated June 25, 2007 prepared by Angela Barney, a physician assistant, detailing treatment appellant received at the Covent Clinic on June 8, 2007. This form noted that appellant was seen for left ankle complaints after she twisted her left ankle stepping off a curb. Ms. Barney identified “sprain/strain of the ankle, unspecified.” She also noted treating appellant’s ankle condition with an air cast and indicated that appellant was excused from work from Friday, June 8 to Friday, July 20, 2007.

By letter dated July 18, 2007, the employing establishment controverted appellant’s claim alleging that the medical documentation received was not sufficient to establish appellant’s claim. Additionally, the employing establishment submitted a statement from Cindy Blair, a Department of Labor, assigned nurse, asserting that appellant requested to be excused from work from June 8 until July 20, 2007 because she had a lot of time off built up and wanted to use it.

By letter dated August 7, 2007, the Office notified appellant that the evidence submitted was insufficient to support her claim. It stated that the evidence did not provide a diagnosis of any condition resulting from the alleged injury of June 8, 2007 and did not include a physician’s opinion as to how her injury resulted in the condition diagnosed.

By decision dated September 25, 2007, the Office denied appellant’s claim as the evidence submitted did not establish that she sustained an injury as defined by the Federal Employees’ Compensation Act. Although it acknowledged that the evidence established that the alleged events occurred, there was no medical evidence containing a diagnosis to establish an injury.

By letter dated October 14, 2007, appellant requested an oral hearing. A telephonic hearing was conducted February 20, 2008. Appellant testified that the substance of the decision was incorrect as it mentioned chiropractors and spinal subluxation, yet she never saw a chiropractor. The hearing representative held the record open for 30 days to allow appellant to submit competent medical information from a physician.

Appellant submitted a copy of a letter dated February 24, 2008 from Ms. Barney. At the bottom of this letter, is a hand-written note: “I concur with the above diagnosis/ankle sprain.” Below this note is an illegible signature, allegedly from a Dr. Patterson.

By decision dated April 11, 2008, the Branch of Hearings and Review affirmed the September 25, 2007 decision of the Office denying the claim because the evidence failed to establish that she sustained an employment-related injury.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees’ Compensation Act has the burden of establishing the essential elements of their claim including: the individual is an employee of the United States within the meaning of the Act; the claim was filed within the applicable time limitation of the Act; 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.¹

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.² The second 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.³

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.⁴ 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.⁵

ANALYSIS

In the present case, the Office accepted that appellant stepped off an employing establishment parking lot curb in the performance of duty on June 8, 2007. However, it concluded the medical evidence of record was insufficient to establish that appellant sustained a left ankle injury as a result of this incident. While appellant submitted reports from Ms. Barney, a physician's assistant, lay individuals such as physician's assistants, nurses and physical therapists are not physicians as defined under the Act.⁶ These reports do not constitute probative medical evidence and are insufficient to establish a diagnosis of appellant's condition and do not support a finding of causal relationship between appellant's left ankle condition and the accepted incident.

¹ *Gary J. Watling*, 52 ECAB 357 (2001).

² *Michael E. Smith*, 50 ECAB 313 (1999).

³ *Id.*

⁴ *Leslie C. Moore*, 52 ECAB 132 (2000).

⁵ *Franklin D. Haislah*, 52 ECAB 457 (2001) (medical reports not containing rationale on causal relationship are entitled to little probative value); *Jimmie H. Duckett*, 52 ECAB 332 (2001).

⁶ *David P. Sawchuk*, 57 ECAB 316 (2006).

Moreover, while allegedly “Dr. Patterson” countersigned a February 24, 2008 note prepared by Ms. Barney concurring with the diagnosis of ankle strain, there is no discussion acknowledging that the accepted incident of June 8, 2007 caused or contributed to the diagnosed condition. The record contains no medical opinion which identifies a history of injury, provides a diagnosis of appellant’s condition, and explains that the June 8, 2007 incident was the cause of appellant’s sprained ankle. The Office informed appellant of the deficiencies in the medical evidence and what was needed to establish her claim. Appellant did not submit medical evidence from a physician that explained how the accepted incident caused her diagnosed condition.

The Board has held that the mere fact that a condition manifests itself during a period of employment does not raise an inference that there is a causal relationship between the two.⁷ Neither the fact that the condition became apparent during a period of employment nor the belief that the condition was caused or aggravated by employment factors or incidents is sufficient to establish causal relationship.⁸ Causal relationship must be substantiated by reasoned medical opinion evidence, which is appellant’s responsibility to submit.

Appellant has not met her burden of proof in establishing that she sustained a sprained ankle causally related to factors of her employment.

CONCLUSION

The Board finds that appellant has not met her burden of proof in establishing that she sustained an injury in the performance of duty on June 8, 2007.

⁷ See *Joe T. Williams*, 44 ECAB 518, 521 (1993).

⁸ *Id.*

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated April 11, 2008 is affirmed.

Issued: February 6, 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