

On February 23, 2007 Dr. D. Vincent Rhodes, Board-certified in family practice, noted that appellant sustained a left shoulder injury when an oven that he was installing shifted and the “weight of the oven was on his left arm and then his neck. The right side of [appellant’s] neck was pressed against the counter.” Dr. Rhodes listed findings on examination of positive impingement.

In a treatment note dated February 26, 2007, Dr. Rhodes found that appellant’s shoulder had improved, but that he was experiencing pain in his neck radiating into his fingers and numbness and tingling into his fingertips. He diagnosed left shoulder impingement and neck pain with radiculopathy. On February 27, 2007 Dr. Rhodes diagnosed cervical radiculopathy and found that appellant was unable to work.

A March 7, 2007 magnetic resonance imaging (MRI) scan of the cervical spine showed multilevel degenerative changes. On March 8, 2007 Dr. Rhodes advised that the MRI scan of the shoulder showed a full thickness tear and the MRI scan of the cervical spine revealed some degenerative disc disease.

On March 27, 2007 the Office accepted that on February 22, 2007 appellant sustained a disorder of the bursae and tendons in the left shoulder and a left rotator cuff tear.

On April 10, 2007 Dr. Rhodes related that appellant’s shoulder was better after physical therapy but that he was “having some neck pain and discomfort, which has been since the time of the accident. He did injure his neck during the accident, as well, though I am not sure if I have mentioned that in previous dictations.” Dr. Rhodes referred appellant for physical therapy of the neck and shoulder.

On June 20, 2007 Dr. Rhodes advised that appellant’s condition had improved but that he continued to complain of numbness of one finger and some chronic back pain. On August 7, 2007 he discussed appellant’s continued complaints of paresthesias of the thumb, forefinger, and middle finger and recommended diagnostic studies. In a treatment note dated September 11, 2007, Dr. Rhodes indicated that a nerve conduction study of the left arm was normal. He again reviewed appellant’s March 2007 MRI scans and noted that it revealed multilevel degenerative disc disease. Dr. Rhodes diagnosed cervicgia with left upper extremity radiculopathy. On November 13, 2007 he discussed appellant’s complaints of continued pain, numbness and tingling in the arm.

On January 14, 2007 Dr. Karen Eller, a Board-certified anesthesiologist, discussed appellant’s complaints of neck pain with radiating numbness and low back pain. She diagnosed cervical radiculopathy, cervical spinal stenosis, and a herniated lumbar disc without myelopathy. Dr. Eller treated appellant with epidural steroid injections. On May 19, 2008 she provided a primary assessment of cervical radiculopathy and also diagnosed rotator cuff syndrome and cervical spinal stenosis. Dr. Eller noted that there was confusion about whether workers’ compensation was paying for his treatment. She indicated that she had treated appellant in 2005 for cervical spondylosis and that he “reinjured himself in February 2007 and developed arm, neck[,] and back pain.”

On June 5, 2008 the Office informed appellant that the medical evidence was currently insufficient to establish that he sustained an injury to his neck on February 22, 2007. It requested that appellant submit a rationalized medical report addressing causal relationship.

By decision dated August 19, 2008, the Office denied appellant's claim on the grounds that the evidence was insufficient to establish that he sustained a cervical condition due to the February 22, 2007 employment incident.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act¹ 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 filed within the applicable time limitation of the Act, that an injury was sustained while 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 occupational disease.²

To determine whether an employee sustained a traumatic injury in the performance of duty, the Office must determine whether "fact of injury" is established. First, an employee has the burden of demonstrating the occurrence of an injury at the time, place and in the manner alleged, by a preponderance of the reliable, probative and substantial evidence.³ Second, the employee must submit sufficient evidence, generally only in the form of medical evidence, to establish a causal relationship between the employment incident and the alleged disability and/or condition for which compensation is claimed.⁴ An employee may establish that the employment incident occurred as alleged, but fail to show that his or her disability and/or condition relates to the employment incident.⁵

ANALYSIS

The Office accepted that appellant sustained a disorder of the bursae and tendons of the left shoulder and a left rotator cuff tear on February 22, 2007 when an oven that he was lifting shifted onto his shoulder. It denied appellant's claim that he sustained a neck injury causally related to the February 22, 2007 incident. The determination of whether an employment incident caused an injury or condition is generally established by medical evidence.⁶

¹ 5 U.S.C. §§ 8101-8193.

² *Calvin E. King*, 51 ECAB 394 (2000); *Caroline Thomas*, 51 ECAB 451 (2000).

³ *Delphyne L. Glover*, 51 ECAB 146 (1999).

⁴ *Gary J. Watling*, 52 ECAB 278 (2001); *Shirley A. Temple*, 48 ECAB 404, 407 (1997).

⁵ *Id.*

⁶ *Lois E. Culver (Clair L. Culver)*, 53 ECAB 412 (2002).

On February 23, 2007 Dr. Rhodes noted the weight of an oven shifting onto appellant's left arm and which pressed his neck against a counter. He found impingement on examination. Dr. Rhodes did not diagnose any cervical condition due to the February 22, 2007 work incident and thus his opinion is insufficient to establish appellant's claim of a cervical injury.

In a report dated February 26, 2007, Dr. Rhodes discussed appellant's complaints of pain in his neck radiating into his fingertips and numbness and tingling radiating to his fingertips. He diagnosed left shoulder impingement and neck pain with radiculopathy. On May 8, 2007 Dr. Rhodes related that an MRI scan of the cervical spine revealed degenerative disc disease. He did not, however, address the cause of the diagnosed conditions. Dr. Rhodes did not explain how the accepted incident caused or aggravated appellant's cervical degenerative disease. Medical evidence that does not offer any opinion regarding the cause of an employee's condition is of diminished probative value on the issue of causal relationship.⁷

On April 10, 2007 Dr. Rhodes found that appellant's shoulder had improved but he continued to experience neck pain which began at the time of his accident. He stated that appellant "did injure his neck during the accident, as well..." Dr. Rhodes did not provide any explanation for his opinion that appellant sustained a neck injury due to the accepted work incident. A mere conclusion without the necessary rationale explaining how and why the physician believes that a claimant's accepted exposure could result in a diagnosed condition is not sufficient to meet a claimant's burden of proof.⁸ A physician must provide a narrative description of the identified employment incident and a reasoned opinion on whether the employment incident described, caused or contributed to appellant's diagnosed medical condition.⁹

In progress reports dated June through November 13, 2007, Dr. Rhodes treated appellant for pain and numbness radiating into his arm and fingers. As he did not address the cause of any diagnosed condition, his reports are of diminished probative value.¹⁰

On January 14, 2007 Dr. Eller reviewed appellant's complaints of neck pain with radiating numbness and low back pain. She diagnosed cervical radiculopathy, cervical spinal

⁷ *Conard Hightower*, 54 ECAB 796 (2003).

⁸ *See Beverly A. Spencer*, 55 ECAB 501 (2004).

⁹ *John W. Montoya*, 54 ECAB 306 (2003).

¹⁰ *See Conard Hightower*, *supra* note 7.

stenosis and a herniated disc without myelopathy. Dr. Eller did not discuss the February 22, 2007 work incident or attribute any cervical condition to the accepted employment incident. Consequently, her opinion is insufficient to meet his burden of proof.

In a report dated May 19, 2008, Dr. Eller diagnosed cervical radiculopathy, rotator cuff syndrome and cervical spinal stenosis. She related that she had previously treated appellant for cervical spondylosis in 2005 and indicated that he had “reinjured himself in February 2007 and developed arm, neck[,] and back pain.” Dr. Eller did not provide any details regarding the February 22, 2007 work incident or provide any rationale for her opinion. A medical report is of limited probative value on the issue of causal relationship if it contains a conclusion regarding causal relationship which is unsupported by medical rationale.¹¹

Appellant did not submit rationalized medical evidence supporting that he sustained a cervical condition causally related to the February 22, 2007 work incident. Consequently, the Office properly denied his claim.

On appeal appellant argues that the Office should pay his medical bills for his cervical condition. Its obligation to pay for medical expenses and other expenses incidental to obtaining medical care, such as loss of wages, extends only to expenses incurred for treatment of the effects of any employment-related condition.¹² A claimant has the burden of proof to submit rationalized medical evidence showing that his treatment resulted from his employment injury.¹³ As noted, appellant did not submit rationalized medical evidence establishing that he sustained a cervical condition on February 22, 2007. Thus, the Office is not obligated to pay medical expenses for treatment of the cervical condition.

CONCLUSION

The Board finds that appellant has not established that he sustained a cervical spine condition causally related to his February 22, 2007 employment injury.

¹¹ *Roma A. Mortenson-Kindschi*, 57 ECAB 418 (2006).

¹² *Carol A. Lyles*, 57 ECAB 265 (2005).

¹³ *Id.*

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated August 19, 2008 is affirmed.

Issued: June 22, 2009
Washington, DC

David S. Gerson, Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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