

appellant sustained an injury as a result of his reported accident. The Office requested that appellant submit, within 30 days, a physician's report with a diagnosis and an opinion regarding whether the diagnosed condition was caused or aggravated by the claimed incident.

Appellant submitted a March 4, 2009 work status report from Dr. Heidi Klingbeil, a Board-certified physiatrist, who advised that appellant could return to regular full-time work. She indicated that appellant had "no impairment as a result of his recent injury."

In an April 6, 2009 decision, the Office denied appellant's claim finding that, although evidence supported that he experienced the claimed incident, the medical evidence was insufficient to establish that he sustained an injury as a result of the reported incident.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act¹ has the burden of establishing the essential elements of his 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; 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 on 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 a "fact of injury" has been established. First, 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. Second, the employee must submit sufficient evidence, generally only in the form of medical evidence, to establish that the employment incident caused a personal injury.³

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, which includes a physician's rationalized opinion on whether there is a causal relationship between the employee's diagnosed condition and the compensable employment factors. The opinion of the physician must be based on a complete factual and medical background of the employee, 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 employee.⁴

¹ 5 U.S.C. §§ 8101-8193.

² *S.P.*, 59 ECAB ____ (Docket No. 07-1584, issued November 15, 2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

³ *Id.*

⁴ *I.J.*, 59 ECAB ____ (Docket No. 07-2362, issued March 11, 2008); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

ANALYSIS

The record supports that on February 23, 2009 appellant was driving a tractor trailer that was struck by two other vehicles while in the performance of duty. The medical evidence does not establish that the motor vehicle accident caused or aggravated appellant's claimed back and neck condition.

Dr. Klingbeil's March 4, 2009 work status report indicated that appellant could return to work and that he sustained no impairment due to his "recent injury." However, she did not provide a diagnosis or address whether the February 23, 2009 work incident caused or aggravated appellant's alleged back and neck condition. The Board has held that medical evidence that does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship.⁵ Appellant did not submit any other evidence from a physician, which addressed causal relationship between a motor vehicle incident in the performance of duty and a back and neck condition. As noted, causal relationship is a medical issue. To meet his burden of proof, appellant must submit medical evidence from a physician addressing how the February 23, 2009 motor vehicle incident caused or aggravated a specific back or neck condition.

The Office notified appellant of the type of evidence necessary to establish his claim on February 26, 2009. Specifically, the Office advised that appellant needed to submit a physician's report explaining how the alleged work incident contributed to his back and neck condition. However, he did not submit a reasoned medical opinion explaining how the February 23, 2009 work incident caused or aggravated a diagnosed medical condition.

On appeal, appellant asserts that he was operating a vehicle within the scope of his employment during the incident on February 23, 2009. He further asserts that all of his medical bills from treatment received for the work incident should be paid as he was in the performance of duty at the time of the incident. It is not disputed that the February 23, 2009 incident occurred in the scope of appellant's employment. As noted, in order to receive any compensation benefits, including payment of medical bills, appellant must submit rationalized medical opinion evidence establishing causal relationship between the work incident and alleged medical condition. Because the medical evidence of record did not address the issue of causal relationship, appellant did not meet his burden of proof and, therefore, is not entitled to compensation benefits.⁶

CONCLUSION

The Board finds that appellant did not meet his burden of proof to establish that he sustained a traumatic injury on February 23, 2009 in the performance of duty.

⁵ *S.E.*, 60 ECAB ___ (Docket No. 08-2214, issued May 6, 2009); *A.D.*, 58 ECAB 149 (2006).

⁶ The Board notes that appellant submitted new evidence after the Office issued its decision. However, the Board may only review evidence that was in the record at the time the Office issued its final decision. *See* 20 C.F.R. § 501.2(c).

ORDER

IT IS HEREBY ORDERED THAT the Office of Workers' Compensation Programs' decision dated April 6, 2009 is affirmed.

Issued: April 5, 2010
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