



with an opinion on how the reported work incident caused or aggravated the claimed back injury. He did not respond.

In an October 3, 2008 decision, the Office denied appellant's claim finding the evidence insufficient to establish that the event occurred as alleged. It found that there was no medical evidence providing any diagnosis connected to the claimed event.

Appellant submitted a nurse's note dated August 12, 2008, which listed appellant's complaint of low back pain. The nurse indicated that appellant had a military injury on his right side. Appellant reported pushing a box when he injured his back on the right side. The nurse diagnosed chronic low back pain and possible pulled muscle.

On October 10, 2008 appellant, through his representative, requested a telephonic hearing, which was held on February 4, 2009.

In a January 30, 2009 report, Dr. Audrey Hodge, Board-certified in family medicine, noted appellant's complaint of knee pain, which had existed for several years. She also noted that appellant had a previous history of low back pain. Appellant also complained of skin blotches on his feet and decreased vision. Her findings included bilateral knee pain, osteoarthritis, decreased vision, obesity, muscle spasm and post-traumatic stress disorder.

In an April 7, 2009 decision, an Office hearing representative affirmed the October 3, 2008 decision. She found that, although appellant established the incident occurred as alleged, the medical evidence did not establish that the work incident caused a personal injury.

### **LEGAL PRECEDENT**

An employee seeking benefits under the Federal Employees' Compensation Act<sup>1</sup> 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.<sup>2</sup>

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.<sup>3</sup>

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<sup>1</sup> 5 U.S.C. §§ 8101-8193.

<sup>2</sup> *S.P.*, 59 ECAB \_\_\_ (Docket No. 07-1584, issued November 15, 2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

<sup>3</sup> *Id.*

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.<sup>4</sup>

### ANALYSIS

The record supports that on August 12, 2008 appellant assisted a worker handling supplies while in the performance of duty. However, the medical evidence does not establish that assisting the worker caused or aggravated appellant's alleged back condition.

A January 30, 2009 report from Dr. Hodge noted appellant's complaint of knee pain, skin blotches on his feet and decreased vision. She also noted a prior history of low back pain. After Dr. Hodge examined appellant, she diagnosed bilateral knee pain, osteoarthritis, decreased vision, obesity, muscle spasm and post-traumatic stress disorder. However, she did not address the issue of causal relationship or discuss whether the August 12, 2008 work incident caused or contributed to a diagnosed back 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.<sup>5</sup> Appellant did not submit any other evidence from a physician, which addressed causal relationship between assisting a worker handle supplies at work and a back injury or 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 August 12, 2008 incident involving assisting a worker handle supplies caused or aggravated a specific back condition.

The record also contains an August 12, 2008 note by a nurse who diagnosed chronic low back pain and possible pulled muscle. However, nurses are not "physicians" as defined under the Act. Their opinions are of no probative medical value.<sup>6</sup>

The Office notified appellant of the type of evidence necessary to establish his claim on August 29, 2008. Specifically, it advised that appellant needed to submit a physician's report explaining how the alleged work incident contributed to his back condition. However, appellant did not submit a reasoned medical opinion explaining how the August 12, 2008 work incident caused or aggravated a diagnosed medical condition.

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<sup>4</sup> *I.J.*, 59 ECAB \_\_\_ (Docket No. 07-2362, issued March 11, 2008); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

<sup>5</sup> *S.E.*, 60 ECAB \_\_\_ (Docket No. 08-2214, issued May 6, 2009).

<sup>6</sup> *Roy L. Humphrey*, 57 ECAB 238 (2005). See 5 U.S.C. § 8101(2) (defining the term "physician"); see also *Charley V.B. Harley*, 2 ECAB 208 (1949) (the Board held that medical opinion, in general, can only be given by a qualified physician).

For these reasons, the Board finds that appellant did not meet his burden of proof to establish his claim.

**CONCLUSION**

The Board finds that appellant did not meet his burden of proof to establish that he sustained a traumatic injury on August 12, 2008 in the performance of duty.

**ORDER**

**IT IS HEREBY ORDERED THAT** the Office of Workers' Compensation Programs' decision dated April 7, 2009 is affirmed.

Issued: January 20, 2010  
Washington, DC

Alec J. Koromilas, Chief Judge  
Employees' Compensation Appeals Board

David S. Gerson, Judge  
Employees' Compensation Appeals Board

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