United States Department of Labor
Employees' Compensation Appeals Board

L.R., Appellant	)	
and	)	**Docket No. 09-1419**
	)	**Issued: January 20, 2010**
DEPARTMENT OF HOMELAND SECURITY, TRANSPORTATION SECURITY ADMINISTRATION, Anchorage, AK, Employer	)	

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
COLLEEN DUFFY KIKO, Judge
MICHAEL E. GROOM, Alternate Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On May 18, 2009 appellant filed a timely appeal from an April 10, 2009 merit decision of the Office of Workers' Compensation Programs, denying her claim for compensation. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3(e), the Board has jurisdiction over the April 10, 2009 merit decision.

ISSUE

The issue is whether appellant has established an injury causally related to factors of her federal employment as a security screener.

FACTUAL HISTORY

On March 2, 2009 appellant, then a 56-year-old security screener, filed an occupational disease claim, alleging that she sustained back, left arm and shoulder conditions as a result of her federal employment. By letter dated March 6, 2009, the Office requested that she submit additional factual and medical evidence. In a narrative statement, appellant indicated that her job

required lifting and transferring luggage and boxes. She indicated she went for treatment on February 10, 2009 due to severe pain.

With respect to medical evidence, appellant submitted notes and form reports (CA-17 and CA-20) signed by a physician's assistant. The record contains an unsigned report dated February 24, 2009 containing the name of the physician's assistant. Appellant also submitted diagnostic tests, including cervical and left shoulder x-rays, and a cervical magnetic resonance imaging (MRI) scan.

By decision dated April 10, 2009, the Office denied her compensation claim. It found that the medical evidence was insufficient to establish the claim.

LEGAL PRECEDENT

A claimant seeking benefits under the Federal Employees' Compensation Act[1] has the burden of establishing the essential elements of her claim by the weight of the reliable, probative and substantial evidence, including that an injury was sustained in the performance of duty as alleged and that any specific condition or disability claimed is causally related to the employment injury.[2]

To establish that an injury was sustained in the performance of duty, a claimant must submit: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant.[3]

Causal relationship is a medical question that can generally be resolved only by rationalized medical opinion evidence.[4] A physician's opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors must be based on a complete factual and medical background of the claimant.[5] Additionally, in order to be considered rationalized, the opinion must be expressed in terms of a reasonable degree of medical certainty and must be supported by medical rationale, explaining the nature of the relationship between the diagnosed condition and appellant's specific employment factors.[6]

[1] 5 U.S.C. §§ 8101-8193.

[2] 20 C.F.R. § 10.115(e), (f) (2005); *see Jacquelyn L. Oliver*, 48 ECAB 232, 235-36 (1996).

[3] *Ruby I. Fish*, 46 ECAB 276, 279 (1994).

[4] *See Robert G. Morris*, 48 ECAB 238 (1996).

[5] *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

[6] *Id.*

ANALYSIS

In this case, appellant identified lifting and transferring luggage and boxes as employment factors causing an injury. The Office accepted that she performed these activities. The issue is whether there is probative medical evidence on causal relationship between a diagnosed back, left arm or shoulder condition and the identified employment factors.

The evidence appellant submitted does not contain a rationalized medical opinion from a physician. Under the Act, a physician includes, "surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors and osteopathic practitioners within the scope of their practice as defined by state law."[7] It is well established that medical evidence from a physician's assistant does not constitute competent medical evidence as a physician's assistant is not a physician under 5 U.S.C. § 8101(2).[8] The reports from the physician's assistant are therefore of no probative value to appellant's claim. The diagnostic studies do not provide an opinion on causal relationship with employment.

On appeal, appellant stated that she was sending papers with different signatures. The Board, however, is limited to the evidence that was before the Office at the time of the April 10, 2009 Office decision. The evidence before the Office did not contain a rationalized medical opinion on causal relationship from a physician. Therefore, the Office properly denied the claim.

CONCLUSION

The Board finds the medical evidence is not sufficient to establish an injury causally related to the identified employment activities.

[7] 5 U.S.C. § 8101(2). With regard to chiropractors, the term "physician" includes chiropractors "only to the extent that their reimbursable services are limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by x-ray to exist." *Id.*

[8] *George H. Clark*, 56 ECAB 162 (2004).

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated April 10, 2009 is affirmed.

Issued: January 20, 2010
Washington, DC

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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

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