

2008 after accepting a modified assignment.¹ The employing establishment controverted the claim.

In reports dated October 16 and 23, 2008, Dr. Henry Rhee, an internist, noted right sided abdominal tenderness and diagnosed gastroenteritis and chronic diarrhea. He checked a box “yes” indicating that appellant’s employment activities caused or aggravated his diagnosed condition explaining that it was a travel-related condition.

On October 31, 2008 the Office advised appellant of the factual and medical evidence necessary to establish his claim and allowed him 30 days to submit additional evidence. It requested a description of what he was doing at the time the alleged injury occurred.

In a September 23, 2008 report, Dr. Kanika Govil, Board-certified in family medicine, noted that appellant had right-sided abdominal pain for one and a half years and had been treated with antibiotics. She noted his complaint of continued abdominal pain on and off. Dr. Govil advised that appellant developed severe pain on the right side of his abdomen at 4:00 a.m. on September 23, 2008. Appellant had traveled to China in August 2008 and Germany during the previous week but was not sick during travel. Dr. Govil noted that he was an air marshal five days per week. On September 25, 2008 she indicated that his condition was unchanged.

In a September 26, 2008 report, Dr. Asma Khapra, a Board-certified internist, noted ongoing intermittent right-sided abdominal pain, occasional diarrhea and bloating over the past year. She stated that appellant traveled extensively overseas for the prior two years as a pilot and had visited China, Germany, Mexico and Kuwait. Dr. Khapra indicated that he had continued intermittent symptoms over the year that worsened in the last month. She diagnosed abdominal pain and diarrhea. On October 9, 2008 Dr. Khapra noted appellant’s ongoing right-sided abdomen pain and diarrhea. She indicated that his ongoing symptoms were of unclear etiology.

Appellant submitted reports from Dr. Rhee advising that his gastrointestinal condition restricted him from his regular duties. A November 12, 2008 attending physician’s report checked a box “yes” that his condition was work related as it was travel related. An April 12, 2008 report from Dr. Rhee diagnosed traveler’s diarrhea and gastroenteritis. He indicated that appellant’s prognosis was unclear and that he was being referred to the National Institutes of Health as his work up was negative and treatment was ineffective. The Office also received diagnostic reports.

On November 10, 2008 the employing establishment advised that appellant last performed his regularly scheduled mission duties on September 22, 2008.

In a December 4, 2008 decision, the Office denied appellant’s claim finding the evidence insufficient to establish that the event occurred as alleged. It noted that the employing establishment indicated that he did not work on September 23, 2008 and that the medical evidence was deficient because it indicated that his condition arose over a period of years and did not relate a history of being related to events occurring on September 23, 2008.

¹ In a November 10, 2008 statement, the employing establishment noted that appellant worked regular duty on September 22, 2008 and used sick leave between September 23 and October 8, 2008.

In a December 9, 2008 statement, appellant requested reconsideration. He noted that he traveled extensively throughout the world, most recently to Germany and China in August and September 2008 respectively. Appellant submitted attending physician's reports from Dr. Rhee dated October 21, 2008 and January 13, 2009 that diagnosed gastroenteritis and chronic diarrhea. Dr. Rhee reiterated that appellant's condition was caused by his travel-related work activities. He listed appellant's history of travel abroad as well as his continued chronic symptoms of abdominal cramping and bloating. Appellant also submitted several diagnostic reports.

In a February 12, 2009 decision, the Office denied modification of the December 4, 2008 decision, finding the evidence insufficient to support that appellant sustained a work-related injury on September 23, 2008.

Appellant requested reconsideration on March 10, 2009. In a February 19, 2009 report, Dr. Rhee noted that appellant first presented to him on October 17, 2008 with symptoms of severe right-sided abdominal cramping and nausea. He opined that appellant had travel-related diarrhea with symptoms starting after his return from work-related travel to Beijing, China. Dr. Rhee stated that appellant's diagnosis was consistent with postinfectious irritable bowel syndrome or tropical sprue. He referred appellant for a workup by the tropical medicine unit at the National Institutes of Health but it was negative for a specific etiology. In a March 2, 2009 attending physician's report, Dr. Rhee listed appellant's diagnoses and reiterated that it was due to his related travel employment.

In a November 7, 2008 response to the Office's questions about his claim, appellant stated that he last performed official duty on September 22, 2008 at 6:04 p.m. when he traveled from San Francisco to Dulles airport in Virginia. Regarding the purpose of his trip, he noted that he traveled out of the United States to China and Germany for mission coverage. Appellant was expected to perform his next official duty on September 25, 2008 traveling from Dulles to New York and Florida. On September 23, 2008 he awoke with severe abdominal pain. Appellant notified the employing establishment that he would seek medical attention but his pain had not subsided.

On November 24, 2008 Dr. Christa Zerbe, a Board-certified internist, noted that appellant's abdominal pain started on September 23, 2008. Appellant had returned from Beijing, China after spending two weeks there for the Olympics. Dr. Zerbe further noted that he worked as an air marshal and traveled five days per week. She diagnosed gastroenteritis immediately upon return from Beijing.

On December 23, 2008 Dr. Siddhartha Mahanty, a Board-certified internist to whom appellant was referred by Dr. Rhee, noted postinfectious gastrointestinal symptoms since appellant's visit to Shanghai, China, in late August 2008. On January 16, 2009 he found no evidence of persistent parasitic infection. He opined that this pattern of illness was most consistent with postinfectious irritable bowel syndrome.

In an April 22, 2009 letter, appellant reiterated that he became ill on September 23, 2008 due to a bacterial infection as a result of international travel. His treating physicians stated that his illness was travel-related and he believed that he contracted the illness during a trip to China.

Appellant noted that he had also traveled to Mexico, Germany, France and Kuwait within six months prior to the illness.

In a June 10, 2009 decision, the Office denied modification of its February 12, 2009 decision, finding the medical evidence insufficient to establish that the alleged work incident caused a work injury.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act² 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.³

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.⁴

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.⁵

ANALYSIS

The record reflects that appellant is an air marshal who claimed abdominal pain and bacterium infection at 4:00 a.m. on September 23, 2008 after he flew from San Francisco to Dulles airport the previous day. The record supports that he traveled in his job and that he was

² 5 U.S.C. §§ 8101-8193.

³ *S.P.*, 59 ECAB ____ (Docket No. 07-1584, issued November 15, 2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

⁴ *Id.*

⁵ *I.J.*, 59 ECAB ____ (Docket No. 07-2362, issued March 11, 2008); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

on a flight on September 22, 2008 less than 12 hours before his claimed condition became symptomatic at his home.

The Board finds, however, that appellant has not submitted sufficient medical evidence to establish his flight on September 22, 2008 caused his claimed abdominal condition on September 23, 2008. Dr. Rhee's February 19, 2009 report diagnosed postinfectious irritable bowel syndrome and opined that appellant had diarrhea symptoms after work-related travel to China. He did not provide sufficient medical explanation as to how appellant's travel caused his diagnosed conditions. Dr. Rhee's notation of "work[-]related travel" is vague.⁶ In his attending physician's reports, he diagnosed appellant's condition and checked "yes" that it was caused or aggravated by an employment activity explaining that it was travel related. However, Dr. Rhee's explanation is too general to constitute medical rationale as it does not clearly address how appellant's travel on or prior to September 23, 2008 caused his diagnosed condition. He did not address appellant's travel to Germany or China in August and September 2008 or explain how appellant's symptoms on the evening of September 23, 2008 related back to such travel. Without medical rationale, this opinion has little probative value and is insufficient to establish a causal relationship.⁷ None of Dr. Rhee's other medical reports address the issue of causal relationship.

Dr. Govil's reports noted that appellant developed abdominal pain at 4:00 a.m. on September 23, 2008, that he worked as an air marshal and traveled internationally. However, she did not opine that his abdominal condition was caused by international travel for work on September 23, 2008 or otherwise designate a cause for his condition.⁸

On September 26, 2008 Dr. Khapra diagnosed abdominal pain and diarrhea. She also noted extensive international travel over the past two years with symptoms worsening over the past month. Dr. Khapra did not specifically relate appellant's condition to travel on September 23, 2008 or discuss whether his condition was caused by work travel. Her opinion is of reduced probative value as it contains insufficient opinion on causal relationship.⁹ Dr. Khapra's October 9, 2008 report does not support appellant's claim as the physician did not attribute his condition to any particular work incident and opined that his symptoms were of unclear etiology.

Reports from Drs. Zerbe and Mahanty diagnosed gastroenteritis upon appellant's return from China. To the extent that the physician's findings support causal relationship, the reports

⁶ See *T.M.*, 60 ECAB ___ (Docket No. 08-975, issued February 6, 2009) (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).

⁷ *Id.* See also *Lucrecia Nielsen*, 42 ECAB 583 (1991); *Lillian Jones*, 34 ECAB 379 (1982) (an opinion on causal relationship which consists only of a physician checking "yes" to a medical form report question on whether the claimant's disability was related to the history given is of little probative value).

⁸ *S.E.*, 60 ECAB ___ (Docket No. 08-2214, issued May 6, 2009) (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).

⁹ *C.F.*, 60 ECAB ___ (Docket No. 08-1102, issued October 10, 2008).

also do not provide any medical rationale explaining how appellant's work-related trip to China caused or aggravated gastroenteritis.

The Board also notes that an employee on travel status or a temporary-duty assignment or special mission for his or her employer is in the performance of duty and under the protection of the Act 24 hours a day with respect to any injury that results from activities essential or incidental to the special duties.¹⁰ Appellant had returned home before his condition became symptomatic. He asserts that his illness began when he was on travel, the fact that an employee is on a special mission or in travel status during the time that a disabling condition manifests itself does not raise an inference that the condition is causally related to the employment. Even if an employee is on a special mission or in travel status during the time a disabling condition manifests itself, the medical evidence must establish a causal relationship between the condition and factors of employment.¹¹ As noted, the medical evidence is insufficient to establish that work factors caused or aggravated a diagnosed medical condition. For these reasons, appellant has not established that he sustained a traumatic injury on September 23, 2008.¹²

CONCLUSION

The Board finds that appellant did not meet his burden of proof to establish that he sustained a traumatic injury on September 23, 2008 in the performance of duty.¹³

¹⁰ *H.S.*, 58 ECAB 554 (2007).

¹¹ *Susan A. Filkins*, 57 ECAB 630 (2006).

¹² The Board notes that appellant filed a traumatic injury claim although he also indicates his condition occurred over several years. A traumatic injury is a condition caused by a specific event or incident, or series of events or incidents, within a single workday or shift. 20 C.F.R. § 10.5(ee). This decision of the Board does not preclude appellant from filing an occupational disease claim if he believes his condition occurred over a period of more than one day or work shift. *See* 20 C.F.R. § 10.5(q) (defining an occupational disease as a condition produced by the work environment over a period longer than a single workday or shift).

¹³ The record contains evidence submitted after the Office most recent decision. However, the Board may only review evidence that was in the record at the time the Office issued its final decision. 20 C.F.R. § 501.2(c).

ORDER

IT IS HEREBY ORDERED THAT the Office of Workers' Compensation Programs decisions dated June 10 and February 12, 2009 are affirmed.

Issued: July 16, 2010
Washington, DC

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

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

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