

it requested a physician's report that provided a diagnosis of appellant's condition and explained whether such condition was caused or aggravated by the claimed injury.

In a May 6, 2009 report from the employing establishment's health unit, a nurse noted that appellant reported sustaining a fall after losing her balance. The nurse also noted possible right shoulder fracture and an abrasion to the left knee. She found restricted movement of the right shoulder and no bleeding. The nurse indicated that appellant was transported to a hospital.

In May 6, 2009, discharge instructions, Dr. Yiju Liu, an emergency room physician, noted that appellant was seen at a hospital on May 6, 2009 for a dislocated shoulder. Dr. Liu advised that appellant could return to work on May 7, 2009 with lifting restrictions of the right arm. Dr. Liu advised that appellant follow up with her primary care physician in one week and keep her sling on for three days.

In a May 7, 2009 employing establishment form report, appellant's supervisor indicated that appellant reported slipping on a floor while reaching down for paper and alleged that she dislocated her right shoulder.

In a June 18, 2009 decision, the Office denied appellant's claim finding that, although the evidence supported that the claimed event occurred, there was no medical evidence providing a diagnosis that could be connected to the event.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act¹ has the burden of establishing the essential elements of 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; 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

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.*

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

ANALYSIS

The record reflects that on May 6, 2009 appellant slipped and fell while reaching down for paper, but the medical evidence does not establish that the May 6, 2009 fall caused or aggravated appellant's alleged right shoulder condition.

Dr. Liu's discharge instructions noted that appellant was seen at the hospital on May 6, 2009 for a dislocated shoulder. The physician also advised that appellant could return to work the next day and provided her with recommendations for further medical care. However, Dr. Liu did not mention or discuss appellant's fall at work on May 6, 2009, or address whether her fall caused or aggravated her alleged right shoulder dislocation. 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 sustaining a fall at work and a right shoulder dislocation. As noted, causal relationship is a medical issue. To meet her burden of proof, appellant must submit medical evidence from a physician addressing how the May 6, 2009 incident caused or aggravated a specific right shoulder condition.

The record also contains an employing establishment health unit report from a nurse. However, nurses are not "physicians" as defined under the Act. Their opinions are of no probative medical value.⁶

The Office notified appellant of the type of evidence necessary to establish her claim on May 18, 2009. Specifically, it advised that appellant needed to submit a physician's report explaining how the claimed work incident contributed to her right shoulder condition. Appellant did not submit a reasoned medical opinion explaining how the May 6, 2009 work incident caused or aggravated a diagnosed medical condition.

On appeal, appellant submitted new evidence and referred the Board to a letter dated June 18, 2009, an emergency room report and physicians' reports dated May 18 and June 2, 2009. The Board may not, however, consider new evidence on appeal. None of these

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

⁵ *S.E.*, 60 ECAB ___ (Docket No. 08-2214, issued May 6, 2009).

⁶ *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).

reports were of record at the time the Office issued its June 18, 2009 decision.⁷ Appellant also asserts that the record contains a report from the employing establishment's health unit. As noted, this record was from a nurse and is of no probative medical value. It did not contain a physician's opinion regarding whether the May 6, 2009 workplace fall caused or aggravated a diagnosed medical condition.

CONCLUSION

The Board finds that appellant did not meet her burden of proof to establish that she sustained a traumatic injury on May 6, 2009 in the performance of duty.

ORDER

IT IS HEREBY ORDERED THAT the Office of Workers' Compensation Programs' decision dated June 18, 2009 is affirmed.

Issued: March 23, 2010
Washington, DC

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

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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

⁷ The Board's review of a case is limited to the evidence that was in the case record that was before the Office at the time of the Office's final decision. See 20 C.F.R. § 501.2(c)(1).