

Dr. Mary Y. Gindi, a Board-certified family practitioner, completed a note on May 6, 2008 and stated that appellant could not work around aroma therapy or scented smells because of exacerbation of her COPD.

In a letter dated July 16, 2008, the Office requested additional factual and medical evidence from appellant. Appellant submitted notes dated May 6, 22 and June 3 and 12, 2008 from Dr. Gindi which noted that appellant was having trouble breathing working in the geriatric ward due to aroma therapy. She stated that she developed shortness of breath and wheezing. Appellant was hospitalized for COPD exacerbation and hypoxia. Her room air oxygen saturation rate was 86 percent. Appellant reported that she could not go back to work because of aromas. She underwent a computerized tomography (CT) scan on May 22, 2008 which demonstrated emphysematous changes. Dr. Ismail Bobat, a Board-certified pulmonologist, examined appellant on July 17, 2008 and diagnosed COPD, suspicion of sleep apnea.

Appellant submitted a statement dated August 1, 2008 and alleged that she was detailed to a locked ward from April 21 to July 18, 2008 and that the aromatherapy pump was utilized. She asked her supervisors to turn off the pump, but this request was denied. Appellant stated that her COPD was exacerbated by the aromatherapy. She noted that, after her physician restricted her from exposure to aroma therapy, the pump was turned off in the ward in which she worked but was still utilized across the hall. Appellant stated that when she went into the hallway for breaks or ice she was again exposed to the aromatherapy. She stated that before her exposure she had no problem performing her duties, but following these exposures she required oxygen 24 hours a day, nebulizer treatments and inhalers.

The employing establishment responded on November 4, 2008 and stated that appellant worked on April 21 through 23, 2008 and was then removed from the unit. Appellant was exposed to aromatherapy on after May 18, 2008 only when she went for ice, to the bathroom or to go off the ward. Her supervisor stated that the aromatherapy unit was not considered to be hazardous and was essentially an air freshening machine.

By decision dated December 8, 2008, the Office denied appellant's claim finding that the medical evidence did not establish a causal relationship between appellant's diagnosed COPD and her accepted employment exposure. Appellant, through her attorney, requested an oral hearing on January 7, 2009. She testified at the oral hearing on April 16, 2009 that she developed lung disease in March 2006 due to smoking. Appellant ceased smoking in May 2008. She stated that she worked in a different ward every night and on April 21, 2008 she was detailed to a locked ward. Appellant informed her supervisor that she anticipated breathing problems due to her condition and the aromatherapy used on that ward to calm the patients. She noted that her physician restricted her from working around the aromatherapy and the employing establishment initially changed her work location on May 6, 2008 and then on May 18, 2008 returned her to the ward with the aromatherapy disconnected. Appellant stated, however, that she continued to be exposed to aromatherapy from the ward across the hall whenever she went into the hall for ice, to go to the bathroom or to go on break. She stopped work on May 23, 2008 and was hospitalized and placed on oxygen.

By decision dated July 1, 2009, the Branch of Hearings and Review affirmed the Office's December 8, 2008 decision finding that appellant had not submitted sufficient medical evidence to meet her burden of proof.

LEGAL PRECEDENT

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) medical evidence establishing the presence or existence of a disease or condition for which compensation is claimed; (2) a factual statement identifying the 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. The medical opinion 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 claimant.¹ This medical opinion must be based upon a complete factual and medical background with an accurate history of appellant's employment injury. The weight of the medical evidence is determined by its reliability, its probative value, its convincing quality, the care of analysis manifested and the medical rationale expressed in support of the physician's opinion.²

ANALYSIS

Appellant has submitted medical evidence diagnosing COPD. She has alleged that she developed an exacerbation of this condition requiring oxygen and additional medications following exposure to aromatherapy in the performance of duty beginning on May 6, 2008. The employing establishment confirmed that appellant was exposed to aromatherapy, or a timed release air freshener beginning on April 21, 2008. Appellant's physician, Dr. Gindi, a Board-certified family practitioner, completed a series of notes describing appellant's increased symptoms and appellant's belief that her symptoms were the result of exposure to the aromatherapy. He did not, however, provide any independent opinion on the causal relationship between appellant's increased symptoms of COPD and her accepted employment exposure. A temporal relationship alone is insufficient to establish causal relationship.³ Appellant must submit medical opinion evidence based on an accurate history of exposure which supports a causal relationship between her condition and her employment exposure. Neither the mere fact that a disease or condition manifests itself during a period of employment nor the belief that the disease or condition was caused or aggravated by employment factors of incidents is sufficient to establish causal relationship.⁴

The Board finds that appellant has not submitted any medical opinion evidence attributing the exacerbation of her COPD to her accepted employment exposure to aromatherapy.

¹ *Solomon Polen*, 51 ECAB 341, 343-44 (2000).

² *James Mack*, 43 ECAB 321, 328-29 (1991).

³ *Louis R. Blair, Jr.*, 54 ECAB 348, 350 (2003).

⁴ *Michael R. Shaffer*, 55 ECAB 386 (2004).

Without the necessary medical opinion evidence, appellant has failed to meet her burden of proof and the Office properly denied her claim.

CONCLUSION

The Board finds that appellant failed to meet her burden of proof in establishing that she sustained an exacerbation of her COPD due to employment exposures.

ORDER

IT IS HEREBY ORDERED THAT the July 1, 2009 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: March 9, 2010
Washington, DC

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

David S. Gerson, Judge
Employees' Compensation Appeals Board

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