

aggravated by his employment activities on April 16, 2009. Appellant stopped work on April 16, 2009 and returned on May 18, 2009. The employing establishment controverted the claim.

On May 27, 2009 the Office advised appellant of factual and medical evidence necessary to establish his claim and allowed him 30 days to submit such evidence.

In a May 7, 2009 statement, appellant indicated that from June 2008 to April 2009 he operated a message and call center console. The position required a hands-free headset that was not made available to him until March 31, 2009. Appellant contended that subsequent to obtaining a headset he realized he had sustained immediate and long-term compromises to his neck, shoulders and back.

In support of his claim, appellant submitted a May 13, 2009 duty status report from a nurse practitioner that diagnosed right trapezius spasm.

In a May 19, 2009 report, Dr. Linette Martinez, a Board-certified internist, advised that appellant was medically incapacitated from April 16 to May 12, 2009. She noted that appellant had been her patient for five years and has had chronic medical issues.

On June 23, 2009 appellant advised that he was left-handed and worked in a right-handed desk arrangement. He noted that his job involved accessing lengthy voicemails continually throughout the day, listening to messages, sketching transcripts and transcribing messages. Appellant asserted that he was not provided with an ergonomic headset, and therefore, had to reach across his body continuously to access equipment, which caused extensive bending of the elbow to the head, shoulder discomfort, low back pain and discomfort in the trapezius that gradually began in December 2008. He also submitted an article from CNN.com titled "More talking, more problems: 'Cell phone elbow' damages nerves." Appellant also submitted a March 20, 2009 letter to the employing establishment requesting a headset.

In a July 28, 2009 decision, the Office denied appellant's claim finding that, although the evidence supported that the claimed events occurred, there was insufficient medical evidence to establish that his claimed conditions were connected to the accepted work duties.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act has the burden of establishing the essential elements of his or 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.¹

¹ J.E., 59 ECAB 119 (2007); *Elaine Pendleton*, 40 ECAB 1143 (1989).

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 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.²

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.³

ANALYSIS

The record reflects that appellant's employment activities involved listening to messages, sketching transcripts and transcribing messages. However, the medical evidence is insufficient to establish that these activities caused or aggravated a diagnosed medical condition.

Dr. Martinez's May 19, 2009 report generally noted that appellant was unable to work for a period and that he had chronic medical issues. She did not provide any specific medical diagnosis or discuss whether appellant's conditions were caused or aggravated by his employment activities. 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.⁴ The record also contains a May 13, 2009 nurse's report. Registered nurses and licensed practical nurses are not physicians as defined under the Act. Their opinions are of no probative value.⁵ Although appellant submitted an article from an internet website about injuries from cell phone usage, the Board has held that such articles are of general application and not determinative regarding whether specific conditions are causally related to the particular employment factors in a claim.⁶

² *D.I.*, 59 ECAB ____ (Docket No. 07-1534, issued November 6, 2007); *Roy L. Humphrey*, 57 ECAB 238 (2005).

³ *I.J.*, 59 ECAB ____ (Docket No. 07-2362, issued March 11, 2008); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

⁴ *S.E.*, 60 ECAB ____ (Docket No. 08-2214, issued May 6, 2009).

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

⁶ See *C.B.*, 60 ECAB ____ (Docket No. 08-2268, issued May 22, 2009) (where the Board held that newspaper clippings, medical texts and excerpts from publications are of no evidentiary value in establishing the necessary causal relationship, as they are of general application and are not determinative of whether the specific condition claimed was causally related to the particular employment injury involved).

On May 27, 2009 the Office advised appellant of the medical evidence necessary to establish his claim and allowed him 30 days to submit such evidence. Appellant did not submit any additional medical evidence prior to the Office's July 28, 2009 decision. The record does not contain any medical reports from a physician explaining how appellant's work duties caused or aggravated a diagnosed medical condition. As noted, appellant's burden of proof requires the submission of rationalized medical evidence addressing whether this is a causal relationship between his diagnosed condition and her employment activities. Appellant did not provide the medical evidence required to establish his claim.

CONCLUSION

The Board finds that appellant did not meet his burden of proof to establish that he sustained an occupational disease in the performance of duty.

ORDER

IT IS HEREBY ORDERED THAT the July 28, 2009 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: October 19, 2010
Washington, DC

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

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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