

left arm nerve during a blood drawing on that day. He claimed pain, trembling and tingling radiating to his fingertips. Appellant's supervisor signed the Form CA-1 on May 21, 2009 and noted that appellant did not stop work. The employing establishment did not controvert the claim.

The Office informed appellant in a June 4, 2009 letter that additional evidence was needed to establish his claim. It gave him 30 days to submit medical reports describing the history of injury, diagnosis, symptoms, test results, period and extent of disability, treatment provided and prognosis and offering a physician's reasoned opinion as to how the May 21, 2009 employment incident caused a left arm condition.

In a May 29, 2009 progress note, Dr. Robert Olexo, an osteopath and Board-certified family practitioner, advised that appellant presented burning, tingling and numbness in the left arm due to the May 21, 2009 blood drawing. On examination, he observed decreased sensation in the left hand dorsum and mild tenderness to palpation in the left antecubital area. Dr. Olexo diagnosed localized left arm neuropathy and status post "lab[oratory] work/blood drawn." He detailed in a May 29, 2009 duty status report that a nurse contacted a nerve in appellant's left arm upon drawing blood for an annual physical examination on May 21, 2009. Dr. Olexo reported localized neuropathy for the diagnosis due to injury. He added that appellant did not miss work.

Appellant's June 23, 2009 response letter denied any preexisting injuries and noted that the blood drawing occurred off the employing establishment premises but was mandated by the employing establishment. It also contained a signed statement from Dane Summerville that he witnessed the incident and observed that appellant "was in pain and had numbness."

In a June 29, 2009 report, Dr. Olexo related that appellant sustained left wrist numbness immediately following a May 21, 2009 blood drawing for a physical done at work. A May 29, 2009 examination, which included a neurological evaluation, revealed mild tenderness to palpation in the left antecubital area and decreased sensation to light touch and filament testing in the left hand dorsum distal to the wrist. Dr. Olexo commented that appellant's arm did not exhibit any rash, blister, bleeding, bruising or erythema. He "found no true disability associated with this work injury" and pointed out that appellant continued to work.

In a July 10, 2009 telephone memorandum, the employing establishment confirmed that appellant was in the performance of duty as it sanctioned his medical appointment on May 21, 2009.

By decision dated July 10, 2009, the Office denied appellant's claim, finding the medical evidence was insufficient to establish a causal relation between any left arm neuropathy diagnosed medical condition and the May 21, 2009 work incident. It accepted that the blood draw was required by the employer.

On August 11, 2009 the Office received an undated prescription note signed by Dr. Olexo, which stated that appellant sustained left wrist neuropathy "due to trauma" on May 21, 2009 involving "lab[oratory] work/needle stick."

Appellant timely requested an oral telephonic hearing, which was held on November 6, 2009. At the hearing, he testified that a nurse “hit a motor nerve” during a mandatory blood draw, causing arm discomfort and difficulty gripping and holding things. Appellant went to his doctor when the pain did not go away after three days.

By decision dated December 29, 2009, an Office hearing representative affirmed the July 10, 2009 denial. She found that there was “no doubt” that appellant “suffered some symptomatology after the blood draw during his work physical” but the record was unclear as to the diagnosis.

LEGAL PRECEDENT

An employee seeking compensation under the Act has the burden of establishing the essential elements of his claim by the weight of reliable, probative and substantial evidence,² including that he is an “employee” within the meaning of the Act and that he filed his claim within the applicable time limitation.³ The employee must also establish that he sustained an injury in the performance of duty as alleged and that his disability for work, if any, was causally related to the employment injury.⁴

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it first must be determined whether fact of injury has been established. There are two components involved in establishing fact of injury. First, the employee must submit sufficient evidence to establish that he actually experienced the employment incident at the time, place and in the manner alleged. Second, the employee must submit evidence, in the form of medical evidence, to establish that the employment incident caused a personal injury.⁵

Causal relationship is a medical issue and the evidence generally required to establish causal relationship is rationalized medical opinion evidence. Rationalized medical opinion evidence is evidence which includes 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. The opinion of the physician must be based on a complete factual and medical background, 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.⁶

² *J.P.*, 59 ECAB 178 (2007); *Joseph M. Whelan*, 20 ECAB 55, 57 (1968).

³ *R.C.*, 59 ECAB 427 (2008).

⁴ *Id.*; *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

⁵ *T.H.*, 59 ECAB 388 (2008).

⁶ *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

ANALYSIS

The Office denied appellant's claim on the basis that the medical evidence did not sufficiently demonstrate a causal relationship between a diagnosed medical condition and the May 21, 2009 work event. Although causal relationship generally requires a rationalized medical opinion, a claim may be accepted without a medical opinion when one or more of the following criteria, as set forth in the Office's procedure manual, are satisfied:

“(1) The condition reported is a minor one which can be identified on visual inspection by a lay person (*e.g.*, burns, lacerations, insect stings or animal bites);

“(2) The injury was witnessed or reported promptly and no dispute exists as to the fact of injury; and

“(3) No time was lost from work due to disability.”⁷

In the present case, the evidence supports that one of appellant's left arm nerves was improperly punctured during a May 21, 2009 blood drawing for the annual employment physical examination. Mr. Summerville, a witness, provided a signed statement in appellant's June 23, 2009 letter that he witnessed the blood drawing and observed him in immediate pain. The condition was minor, as the Form CA-1 and Dr. Olexo's May 29 and June 29, 2009 medical reports indicated that appellant did not incur any time loss from work due to his diagnosed left arm neuropathy. Thus, the first and third criteria are satisfied.

The second criterion is also met since appellant's supervisor signed the Form CA-1 on May 21, 2009, the same day as the employment incident, demonstrating that the injury was promptly reported. As mentioned, Mr. Summerville attested to the employment incident. Furthermore, no dispute exists as to the fact of injury.

Because all three of the enumerated criteria are satisfied, a medical opinion on causal relationship is not necessary.⁸ The Board also notes that Dr. Olexo's medical reports listed an accurate history of the injury, reported findings on examination and diagnosed localized neuropathy due to the work incident.⁹ Dr. Olexo did not list any other cause for appellant's symptoms. Accordingly, the Board finds that appellant sustained a traumatic injury in the performance of duty.¹⁰

⁷ *Jussara L. Arcanjo*, 55 ECAB 281 (2004); *See* Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3(d)(1) (September 2010); *M.A.*, Docket No. 08-2510 (issued July 16, 2009).

⁸ The Board notes that a claimant need not establish all three factors to prevail. *Pearlene Morton*, 52 ECAB 493 (2001); *Timothy D. Douglas*, 49 ECAB 558 (1998); *see, e.g., M.A., supra* note 7.

⁹ Although the hearing representative denied the claim because she questioned whether a diagnosis was provided, Dr. Olexo clearly diagnosed localized neuropathy and noted findings on examination to support the diagnosis.

¹⁰ This is also consistent with Office procedures which state that deleterious effects such as injury while undergoing periodic medical examination are compensable. *See* Federal (FECA) Procedure Manual, Part 2 -- Claims, *Performance of Duty*, Chapter 2.804.19(a) (March 1994).

Because the Office did not address appellant's entitlement to medical benefits, the case will be remanded for the Office to make appropriate findings on the issue. After such further development as it considers necessary, the Office shall issue a *de novo* decision on appellant's entitlement to benefits under the Act.

CONCLUSION

The Board finds that appellant established that he sustained a traumatic injury in the performance of duty on May 21, 2009.¹¹

ORDER

IT IS HEREBY ORDERED THAT the December 29, 2009 decision of the Office of Workers' Compensation Programs is reversed. The case is remanded for further action consistent with this decision.

Issued: April 1, 2011
Washington, DC

Alec J. Koromilas, Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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

¹¹ The Board notes that appellant submitted new evidence on appeal. The Board lacks jurisdiction to review evidence for the first time on appeal. 20 C.F.R. § 501.2(c).