

**United States Department of Labor  
Employees' Compensation Appeals Board**

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**L.J., Appellant**

**and**

**DEPARTMENT OF JUSTICE, BUREAU OF  
PRISONS, Miami, FL, Employer**

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**Docket No. 12-856  
Issued: October 24, 2012**

*Appearances:*  
*Appellant, pro se*  
*Office of Solicitor, for the Director*

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

PATRICIA HOWARD FITZGERALD, Judge  
ALEC J. KOROMILAS, Alternate Judge  
MICHAEL E. GROOM, Alternate Judge

**JURISDICTION**

On March 7, 2012 appellant filed a timely appeal from a February 3, 2012 decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act<sup>1</sup> (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

**ISSUE**

The issue is whether appellant developed a sinus condition due to factors of her federal employment.

**FACTUAL HISTORY**

Appellant, a 32-year-old correctional officer, filed a Form CA-1 traumatic injury claim on December 12, 2012, alleging respiratory stress, nausea, swollen sinuses and a headache when

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<sup>1</sup> 5 U.S.C. § 8101 *et seq.*

she inhaled a strong wet carpet odor due to a broken sprinkler which soaked the common areas of her worksite.

In a report dated December 13, 2011, it was noted that appellant had sinus pain and a runny nose. She related that she had been exposed to a wet, odorous rug for five days and had developed nasal congestion and sinus problems. Appellant was evaluated at an urgent care clinic and diagnosed with acute sinusitis. She experienced nasal congestion, nasal discharge and headache and eye discomfort. Appellant experienced no cough, sputum production, difficulty breathing, chest discomfort, pain, fever, muscle aches, chills, sore throat or hoarseness. She also had no sinus pressure, sinus drainage or ear pain. Appellant was instructed to avoid work and drink plenty of fluids. The report was not signed by a physician.

In a Form CA-16 dated December 13, 2011, Dr. Roberto E. Sanchez, Board-certified in internal medicine, noted that on December 12, 2011 appellant had experienced headache, nausea, and respiratory issue due to a strong odor emanating from a wet carpet in a housing unit. He did not know whether her condition was caused by employment activity.<sup>2</sup> In a December 18, 2011 disability slip, Dr. Sanchez stated that appellant should not work for three days.

On December 23, 2011 OWCP advised appellant that it required additional factual and medical evidence to determine whether she was eligible for compensation benefits. It asked her to submit a comprehensive medical report from a treating physician describing her symptoms, a firm diagnosis and an opinion as to whether her claimed condition was causally related to her federal employment. OWCP requested that appellant submit the additional evidence within 30 days.

In a report dated December 12, 2011, received by OWCP on January 3, 2012, Dr. Sanchez stated that appellant had experienced a runny nose, fever, muscle aches, sinus pain and a cough; he noted that she had had contact with a sick individual. Appellant demonstrated no anorexia, chills, fatigue, sweats or weight loss, decreased vision, eye irritation, photophobia or ear drainage or pain, hearing loss, tinnitus, nasal congestion, epistaxis or mouth sores, sore throat, calf pain, chest pain, difficulty breathing or pedal edema. She had no palpitations, abdominal pain, black stools, bloody stools, constipation, diarrhea, nausea, vomiting, abnormal bleeding, urinary frequency/hesitancy, back pain, neck pain or insect bite. There were no skin lesions, rashes, alteration in mental status, dizziness, headaches, head injuries, numbness, seizure, suicidal thoughts or weakness. Appellant showed no diabetic symptoms, easy bruising or symptoms of hypothyroidism. She denied having a sleep disorder and had no difficulty walking. All systems were otherwise negative. Dr. Sanchez diagnosed acute sinusitis, stated that appellant was in good, stable condition and noted continued improvement. He advised her to follow up with a specialist.

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<sup>2</sup> The employing establishment issued a Form CA-16 on December 12, 2011 to the Baptist Medical Plaza, to furnish office or hospital treatment as medically necessary for the effects of headache, nausea and respiratory issues due to a strong odor from wet carpet. A properly executed Form CA-16 creates a contractual obligation, which does not involve the employee directly, to pay the cost of the examination or treatment regardless of the action taken on the claim. See *Elaine M. Kreyborg*, 41 ECAB 256 (1989). Although OWCP adjudicated appellant's claim of injury, it did not adjudicate the issue of reimbursement pursuant to this Form CA-16. On return of the record, it should proceed to adjudicate this matter.

In a December 21, 2011 report, Dr. John J. Badell, a specialist in occupational medicine, diagnosed chronic sinusitis, recommended that appellant avoid exposure to dust or mold and released her to return to work on December 21, 2011.

In a December 21, 2011 report, Dr. Badell stated that appellant had complaints of head pain stemming from a December 12, 2011 work injury. He related that she inhaled wet mildew and moldy carpet for two days and experienced sinus pain, face pain, sinus pain and congestion after her exposure. Dr. Badell advised that appellant's major complaint was sinus/facial pressure on the forehead and maxillary region. Appellant denied having headaches, shortness of breath and difficulty breathing. Dr. Badell diagnosed allergic sinusitis and recommended that she avoid exposure to mold or dust.

In a follow-up report dated December 27, 2011, Dr. Badell advised that appellant had returned to regular duty, was feeling better and had attained an improvement in the pattern of symptoms. Appellant related that the prescribed medications had provided some relief. Dr. Badell reiterated the diagnosis of allergic sinusitis.

By decision dated February 3, 2012, OWCP denied appellant's claim, finding that she failed to submit sufficient medical evidence in support of her claim that she sustained an injury in the performance of duty on December 12, 2011.

### **LEGAL PRECEDENT**

An occupational disease or illness means a condition produced by the work environment over a period longer than a single workday or shift.<sup>3</sup> 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.<sup>4</sup>

The Board has held that the mere fact that a condition manifests itself during a period of employment does not raise an inference that there is a causal relationship between the two.<sup>5</sup>

An award of compensation may not be based on surmise, conjecture or speculation. Neither the fact that appellant's condition became apparent during a period of employment nor the belief that her condition was caused, precipitated or aggravated by his employment is

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<sup>3</sup> 20 C.F.R. § 10.5(q).

<sup>4</sup> *Solomon Polen*, 51 ECAB 341, 343-44 (2000).

<sup>5</sup> *See Joe T. Williams*, 44 ECAB 518, 521 (1993).

sufficient to establish causal relationship.<sup>6</sup> Causal relationship must be established by rationalized medical opinion evidence and appellant failed to submit such evidence.

### ANALYSIS

Appellant has alleged that she experienced respiratory stress, nausea, swollen sinuses and a headache when she was exposed to a strong wet carpet odor on December 12, 2011. She also submitted evidence that her exposure was for more than one work shift. The Board finds that appellant has not submitted sufficient medical opinion evidence to establish a causal relationship between her diagnosed conditions and her exposure to wet carpeting at work.<sup>7</sup>

Dr. Sanchez listed findings on examination and stated that appellant had experienced sinus pain, face pain and headaches on December 12, 2011. He diagnosed acute sinusitis and noted that she had a runny nose, fever, muscle aches, sinus pain and a cough after her exposure to the wet, moldy carpet, he also noted that she had been exposed to a sick individual. In completing the Form CA-16 report, Dr. Sanchez acknowledged that he did not know whether appellant's employment caused her diagnosed conditions.

In a December 21, 2011 report, Dr. Badell diagnosed chronic and allergic sinusitis, recommended that appellant avoid exposure to dust or mold and released her to return to work on December 21, 2011. Appellant had complaints of head pain stemming from the claimed December 12, 2011 work exposure. Dr. Badell obtained a history that appellant inhaled wet mildew and moldy carpet for two days and experienced sinus pain, face pain, sinus pain and congestion after her exposure. He advised that appellant's major complaint was sinus/facial pressure on the forehead and maxillary region. In a follow-up report dated December 27, 2011, Dr. Badell reiterated the diagnosis of allergic sinusitis and noted a distinct improvement in appellant's pattern of symptoms. Appellant returned to full duty and indicated that her medications had provided her with relief.

The weight of medical opinion is determined by the opportunity for and thoroughness of examination, the accuracy and completeness of physician's knowledge of the facts of the case, the medical history provided, the care of analysis manifested and the medical rationale expressed in support of stated conclusions.<sup>8</sup> The reports from Drs. Sanchez and Badell are not sufficient to meet appellant's burden of proof as neither physician offered sufficient opinion on the causal relationship between her diagnoses and the accepted employment exposure to a wet carpet odor. The physicians did not provide adequate medical reasoning to explain how appellant's exposure to a wet carpet odor caused or contributed to her claimed sinus conditions. Appellant failed to provide a rationalized, probative medical opinion relating her current conditions to factors of her employment.

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<sup>6</sup> *Id.*

<sup>7</sup> The Board notes that it is adjudicating the instant claim as one for occupational disease. While appellant filed a Form CA-1 and OWCP adjudicated this claim as one based on traumatic injury, several reports listed a history of exposure at work to a wet carpet from two to five days. 20 C.F.R. § 10.5 (q) defines occupational disease or illness as a condition produced by the work environment over a period longer than a single workday or shift.

<sup>8</sup> See *Anna C. Leanza*, 48 ECAB 115 (1996).

OWCP advised appellant of the evidence required to establish her claim; however, appellant failed to submit such evidence. It properly denied her claim for compensation.

**CONCLUSION**

The Board finds that appellant has not met her burden of proof in establishing that she developed or sustained an aggravation of her chronic or acute sinusitis conditions due to exposure to a wet carpet odor in the performance of her federal job duties.

**ORDER**

**IT IS HEREBY ORDERED THAT** the February 3, 2012 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: October 24, 2012  
Washington, DC

Patricia Howard Fitzgerald, Judge  
Employees' Compensation Appeals Board

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

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