

FACTUAL HISTORY

On May 15, 2013 appellant, then a 57-year-old electronics technician, filed an occupational disease claim alleging that she sustained back pain and headaches as a result of radiation at the transmitter and communication sites. She described experiencing a stomachache, ulcer, poor eyesight and a cyst on her left breast when she was electrocuted at work. Appellant first became aware of her condition on March 10, 1986 and realized that it resulted from her employment on July 14, 1989. She stopped work on May 10, 1990. The employing establishment noted on the claim form that appellant had reported the condition to her supervisor on February 2, 1986.

Appellant submitted a handwritten illegible medical slip from Dr. Jose Alvin L. Agustin, an ophthalmologist, dated June 16, 2013.

By letter dated August 29, 2013, OWCP advised appellant that the evidence submitted was insufficient to establish her claim. It requested that she respond to the questions on an attached questionnaire and provide additional medical evidence, which included a description of findings, test results and a diagnosis, that demonstrated that she sustained a diagnosed condition as a result of her federal employment. Appellant did not respond.

In a decision dated October 3, 2013, OWCP denied appellant's claim. It accepted that she was electrocuted as alleged but denied her claim finding insufficient medical evidence to establish that she sustained a firm medical condition causally related to her employment.

LEGAL PRECEDENT

An employee seeking benefits under FECA has the burden of proof to establish the essential elements of his or her claim by the weight of the reliable, probative, and substantial evidence³ including that he or she sustained an injury in the performance of duty and that any specific condition or disability for work for which he or she claims compensation is causally related to that employment injury.⁴ In an occupational disease claim, appellant's burden requires submission of the following: (1) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; (2) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; and (3) medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the employee.⁵

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence.⁶ The opinion of the

³ *J.P.*, 59 ECAB 178 (2007); *Joseph M. Whelan*, 20 ECAB 55, 58 (1968).

⁴ *M.M.*, Docket No. 08-1510 (issued November 25, 2010); *G.T.*, 59 ECAB 447 (2008); *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

⁵ *R.H.*, 59 ECAB 382 (2008); *Ernest St. Pierre*, 51 ECAB 623 (2000).

⁶ *I.R.*, Docket No. 09-1229 (issued February 24, 2010); *D.I.*, 59 ECAB 158 (2007).

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.⁷

ANALYSIS

Appellant alleged that she sustained back pain, headaches, stomachaches, ulcer, poor eyesight and a cyst on her left breast as a result of the duties she performed as an electronics technician. OWCP accepted that she was electrocuted in her employment but denied her claim finding insufficient medical evidence to establish that she sustained a diagnosed condition causally related to factors of her employment. The Board finds that appellant did not meet her burden of proof to establish that she sustained an injury in the performance of duty.

The only medical evidence of record is a handwritten July 16, 2013 medical slip from Dr. Agustin. The report is largely illegible. The report does not provide any description of her employment duties, physical examination findings, a firm diagnosis of her condition, or a physician's opinion on the causal relationship between her employment and any diagnosed condition. By letter dated August 29, 2013, OWCP advised appellant that the evidence submitted was insufficient to establish her claim. It requested additional factual and medical evidence to establish that she sustained a diagnosed condition as a result of her federal employment. No additional evidence was received. The Board finds that there is no rationalized medical opinion from a physician to establish that appellant sustained an injury causally related to factors of her employment. Appellant did not meet her burden of proof to establish her occupational disease claim.

On appeal, appellant described the duties she performed as an electronics technician and the symptoms for which she received medical treatment. As noted, OWCP has accepted that she performed the duties as described. Appellant did not provide sufficient medical evidence to establish that any of her claimed medical conditions arose as a result of her employment duties or exposures. The issue of causal relationship is a medical question that must be established by probative medical opinion from a physician.⁸ As the record contains no such medical evidence, the Board finds that OWCP properly denied appellant's claim.

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

CONCLUSION

The Board finds that appellant did not meet her burden of proof to establish that she sustained an injury causally related to factors of her employment.

⁷ *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 465 (2005).

⁸ *W.W.*, Docket No. 09-1619 (issued June 2, 2010); *David Apgar*, 57 ECAB 137 (2005).

ORDER

IT IS HEREBY ORDERED THAT the October 3, 2013 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: May 1, 2014
Washington, DC

Richard J. Daschbach, Chief Judge
Employees' Compensation Appeals Board

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

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