

establishment controverted the claim, stating that the staph condition preexisted the July 22, 2014 incident and that there was no evidence that the staph infection was causally related to employment factors.

In a statement received by OWCP on August 12, 2014, appellant's supervisor, Cristian Lopez, stated that appellant was engaged in fighting a fire on July 22, 2014; he was part of the crew that was digging a line around the fire. He stated that after lunch appellant informed him and the emergency medical technician (EMT) crew about the rashes and bumps on his head. After the fire was contained, appellant requested medical attention from the EMT medics. The following day, July 23, 2014, he was treated by a physician who placed him on light duty because he did not want him wearing a hard hat on his head; he needed to let the rashes and bumps on his head heal. Mr. Lopez advised that on July 24, 2014 appellant flew back home and was back at work the next day doing light-duty work at Ash Mountain.

By letter to appellant dated August 15, 2014, OWCP advised appellant that it required additional factual and medical evidence to determine whether he was eligible for compensation benefits. It asked him to submit a comprehensive medical report from his treating physician describing his symptoms and a medical opinion explaining the cause of any diagnosed condition.

In a Form CA-16 dated July 23, 2014, received by OWCP on August 22, 2014, Dr. Charles M. Wong, a specialist in internal medicine and urgent care, stated that appellant had a history of work-related staph infections, including the incident which occurred on July 22, 2014, which resulted in the emergence of cellulitis on his scalp. He restricted appellant from performing his regular work or wearing headgear for one week. Dr. Wong checked a box indicating that the condition found was caused or aggravated by the employment activity described.

In a July 31, 2014 report, received by OWCP on September 18, 2014, Dr. Sanjay Deshmukh, Board-certified in physical medicine and rehabilitation, reported that appellant noticed bumps on the back of his head on July 22, 2014 after fighting a fire; these bumps subsequently evolved into a rash and staph infection. He noted that appellant had recently developed a skin infection on his knee and diagnosed a skin infection on the scalp, but stated that there were no chemical or toxic compounds involved. Dr. Deshmukh also noted that other members of appellant's family had contracted similar infections. He stated that appellant could return to regular work as of July 31, 2014.

In an August 7, 2014 report, received by OWCP on September 2, 2014, Dr. Geoffrey Black, a specialist in family medicine, reported that appellant felt normal and had no noticeable lesions or skin sores at the temporal area and at the back of the neck. He noted that appellant had a skin infection of the scalp which had resolved. Dr. Black released him to return to regular work with no limitations and no need for further medical follow up.

By decision dated September 24, 2014, OWCP denied the claim, finding that appellant failed to provide medical evidence sufficient to establish that he sustained an injury to his head or scalp causally related to the accepted July 22, 2014 work incident.

LEGAL PRECEDENT

An employee seeking benefits under FECA² has the burden of establishing that 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 FECA, that the claim was timely filed within the applicable time limitation period of FECA, that an injury was sustained 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.³ These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁴

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it must first be determined whether a “fact of injury” has been established. First, the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time, place, and in the manner alleged.⁵ Second, the employee must submit sufficient evidence, generally only in the form of medical evidence, to establish that the employment incident caused a personal injury.⁶

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.⁷

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 his condition was caused, precipitated, or aggravated by his employment is sufficient to establish causal relationship.⁸ Causal relationship must be established by rationalized medical opinion evidence and appellant failed to submit such evidence.

ANALYSIS

It is uncontested that appellant experienced pain and developed sores on his head and scalp after fighting a fire on July 22, 2014. The question of whether an employment incident caused a personal injury can only be established by probative medical evidence.⁹ Appellant has not submitted rationalized, probative medical evidence to establish that the July 22, 2014 employment

² *Id.*

³ *Joe D. Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁴ *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁵ *John J. Carlone*, 41 ECAB 354 (1989).

⁶ *Id.* For a definition of the term “injury,” see 20 C.F.R. § 10.5(e)(e).

⁷ See *Joe T. Williams*, 44 ECAB 518, 521 (1993).

⁸ *Id.*

⁹ *Carlone*, *supra* note 5.

incident while fighting a fire caused a personal injury and that the work incident would have been competent to cause the claimed injury.

Appellant submitted reports from Drs. Wong, Deshmukh, and Black. In his July 23, 2014 Form CA-16 report, Dr. Wong diagnosed cellulitis and stated that appellant had a history of work-related staph infections, including the incident which occurred on July 22, 2014, which resulted in the emergence of cellulitis on his scalp. He restricted appellant from performing his regular work or wearing headgear for one week. Dr. Wong, however, did not provide a probative, rationalized opinion regarding whether the July 22, 2014 work incident caused a personal injury. Further, form reports that support causal relationship with a checkmark are insufficient to establish the claim, as the Board has held that, without further explanation or rationale, a checked box is not sufficient to establish causation.¹⁰

The record does reflect that the employing establishment issued appellant a Form CA-16 on July 23, 2014 authorizing medical treatment, by the Northwest Urgent Care Center, the medical facility which employed Dr. Wong. The Board has held that where an employing establishment properly executes a Form CA-16, which authorizes medical treatment as a result of an employee's claim for an employment-related injury, it 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.¹¹ Although OWCP denied appellant's claim for an injury, it did not address whether he is entitled to reimbursement of medical expenses pursuant to the Form CA-16. Upon return of the case record, it should further address this issue.

The other medical reports of record are also not sufficient to establish appellant's claim. Dr. Deshmukh stated in his July 31, 2014 report that appellant had bumps on the back of his head on July 22, 2014 after fighting a fire which subsequently developed into a rash and staph infection. He diagnosed a skin infection but indicated that appellant had not been exposed to chemical or toxic compounds. Dr. Deshmukh also noted, without further explanation, that the other members of appellant's family had contracted similar infections. This statement leaves unresolved the question as to whether these infections were caused by some agent or exposure common to the entire family, rather than the workplace incident of July 22, 2014.

In his August 7, 2014 report, Dr. Black stated that appellant had a skin infection of the scalp which had resolved. He did not present an opinion as to whether the skin infection was caused or aggravated by the July 22, 2014 firefighting incident.

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.¹² Although Drs. Wong, Deshmukh, and Black provided diagnoses of skin infection, staph infection, and cellulitis, these physicians did not submit a

¹⁰ *Debra S. King*, 44 ECAB 203 (1992); *Salvatore Dante Roscello*, 31 ECAB 247 (1979).

¹¹ See *W.R.*, Docket No. 14-1869 (issued January 28, 2015); *D.M.*, Docket No. 13-535 (issued June 6, 2013). See also 20 C.F.R. §§ 10.300, 10.304.

¹² See *Anna C. Leanza*, 48 ECAB 115 (1996).

report which addressed how the diagnosed conditions were causally related to the July 22, 2014 work incident. They did not sufficiently explain how, medically, appellant would have sustained a staph infection, skin infection, or cellulitis condition causally related to his fighting a fire on July 22, 2014. They did not adequately describe his accident or how the accident would have been competent to cause the claimed conditions. Their opinions regarding causal relationship is of limited probative value for the further reason that they did not provide adequate medical rationale in support of their conclusions.¹³ Appellant did not submit reports containing sufficient medical evidence demonstrating a causal connection between his July 22, 2014 work incident and his claimed head/scalp conditions.

OWCP advised appellant of the evidence required to establish his claim. Appellant has failed to submit such evidence. Causal relationship must be established by rationalized medical opinion evidence. Appellant did not provide a medical opinion which describes or explains the medical process through which the July 22, 2014 work accident would have caused the claimed injury. Accordingly, he did not establish that he sustained her head/scalp injury in the performance of duty. OWCP properly denied appellant's claim for compensation.

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 has failed to establish that he sustained an injury to his head and scalp in the performance of duty on July 22, 2014.

¹³ *William C. Thomas*, 45 ECAB 591 (1994).

ORDER

IT IS HEREBY ORDERED THAT the September 24, 2014 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: March 17, 2015
Washington, DC

Christopher J. Godfrey, Chief Judge
Employees' Compensation Appeals Board

Patricia Howard Fitzgerald, Judge
Employees' Compensation Appeals Board

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