

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

N.B., Appellant)	
)	
and)	Docket No. 19-0079
)	Issued: June 14, 2019
DEPARTMENT OF VETERANS AFFAIRS,)	
OLIN E. TEAGUE VETERANS CENTER,)	
Temple, TX, Employer)	
)	

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

Case Submitted on the Record

DECISION AND ORDER

Before:
CHRISTOPHER J. GODFREY, Chief Judge
PATRICIA H. FITZGERALD, Deputy Chief Judge
JANICE B. ASKIN, Judge

JURISDICTION

On October 15, 2018 appellant filed a timely appeal from a May 7, 2018 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act¹ (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction to consider the merits of this case.²

ISSUE

The issue is whether appellant has met her burden of proof to establish that her diagnosed dermatitis is causally related to accepted factors of her federal employment.

¹ 5 U.S.C. § 8101 *et seq.*

² The Board notes that appellant submitted additional evidence on appeal. However, the Board's *Rules of Procedure* provides: The Board's review of a case is limited to the evidence in the case record that was before OWCP at the time of its final decision. Evidence not before OWCP will not be considered by the Board for the first time on appeal. 20 C.F.R. § 501.2(c)(1). Thus, the Board is precluded from reviewing this additional evidence for the first time on appeal. *Id.*

FACTUAL HISTORY

On January 24, 2018 appellant, then a 45-year-old surgical technician, filed an occupational disease claim (Form CA-2) alleging that she developed contact dermatitis due to exposure to substances while in the performance of her federal employment duties. She noted that both hands itched and that her skin was painful with open sores. Appellant indicated that she first became aware of her disease or illness and of its relation to her federal employment duties on December 5, 2017. She did not stop work.

In a development letter dated February 12, 2018, OWCP informed appellant of the deficiencies of her occupational disease claim. It advised her of the type of factual and medical evidence needed and provided a questionnaire for her completion. In a separate letter of even date, OWCP requested comments from the employing establishment regarding substances to which appellant had been exposed while at work. Both parties were afforded 30 days to submit additional evidence.

A February 8, 2018 duty status report (Form-CA-17) provided work restrictions precluding use of appellant's right hand and right wrist.

By decision dated April 11, 2018, OWCP denied appellant's claim, finding that the medical evidence of record was insufficient to establish a diagnosed condition in connection with the accepted factors of her federal employment.

On April 27, 2018 appellant requested reconsideration.

In a December 5, 2017 note, Dr. David F. Butler, a Board-certified dermatologist, noted that appellant, a scrub technician, had an itchy rash on her hands. He noted that at work she used betadine and antiseptic cleanser throughout the day. On January 9 and 22, 2018 Dr. Butler diagnosed eczematous dermatitis on the dorsum of both hands with no specific aggravation or triggering factor.

On January 26, 2018 Dr. Lisa Shirley-Williams, a Board-certified dermatologist, found that appellant's chronic hand dermatitis was due to an allergic reaction to p-Phenylenediamine (PPDA) or hair dye. She recommended the use of latex-free gloves, hand moisturizer, and medicated ointment. On February 5, 2018 Dr. Butler attributed appellant's hand dermatitis to an exacerbation with scrubbing and possible recent triggering event of dyeing her hair in November 2017.

In a February 26, 2018 report, Dr. Butler described appellant's job requirements of scrubbing her hands and wrists with antiseptics several times a day. He noted that she believed that this duty was causing or aggravating the rash on her hands. Dr. Butler found hyperpigmented scaly eczematous patches on the dorsum of both hands and wrists. He recommended avoidance of scrubbing as well as application of ointment and application of moisturizing ointment. Dr. Butler noted that appellant first reported her itchy rash on her hands and chest on August 7, 2017. On January 9, 2018 appellant returned for treatment because of an acute exacerbation following return to work after a vacation. She noted that while on vacation her rash had cleared completely, but that after she returned to work and to scrubbing her hands, an eruption quickly returned. Dr. Butler reviewed appellant's allergy testing and concluded that her PPDA or

hair dye allergy was not applicable in playing a direct role in her hand dermatitis. He found appellant had severe irritant dermatitis of the hands and wrists caused or aggravated by scrubbing her hands with antiseptics as part of her employment as an operating room technician. Dr. Butler concluded that the act of scrubbing with antiseptics on a daily basis as required for her job had definitely caused or made manifest irritant eczematous dermatitis. He determined that appellant could not scrub her hands at work and should perform light-duty work.

By decision dated May 7, 2018, OWCP modified the April 11, 2018 decision to reflect that appellant had established a diagnosed medical condition. However, the claim remained denied as the medical evidence of record was not sufficiently rationalized to establish causal relationship between the accepted factors of her federal employment and her diagnosed conditions.

LEGAL PRECEDENT

An employee seeking benefits under FECA has the burden of proof to establish 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,³ that an injury was sustained in the performance of duty as alleged, and that any disability or medical condition for which compensation is claimed is causally related to the employment injury.⁴ 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.⁵ OWCP's regulations define an occupational disease as "a condition produced by the work environment over a period longer than a single workday or shift."⁶ 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 identified employment factors.

Causal relationship is a medical question, which requires rationalized medical opinion evidence to resolve the issue.⁷ A physician's opinion on whether there is causal relationship between the diagnosed condition and the implicated employment factors must be based upon a complete factual and medical background.⁸ Additionally, his or her opinion must be expressed in

³ *S.B.*, Docket No. 17-1779 (issued February 7, 2018); *J.P.*, 59 ECAB 178 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

⁴ *J.M.*, Docket No. 17-0284 (issued February 7, 2018); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

⁵ *K.M.*, Docket No. 15-1660 (issued September 16, 2016); *L.M.*, Docket No. 13-1402 (issued February 7, 2014); *Delores C. Ellyett*, 41 ECAB 992 (1990).

⁶ 20 C.F.R. § 10.5(q).

⁷ *E.V.*, Docket No. 18-1617 (issued February 26, 2019).

⁸ *Id.*

terms of a reasonable degree of medical certainty, and must be supported by medical rationale, explaining the nature of the relationship between the diagnosed condition and the claimant's specific employment factors.⁹ The belief of a claimant that a condition was caused or aggravated by the employment is not sufficient to establish causal relation.¹⁰

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish that her diagnosed dermatitis is causally related to the accepted factors of her federal employment.

On January 26, 2018 Dr. Shirley-Williams diagnosed chronic hand dermatitis. She attributed appellant's condition to an allergic reaction to PPDA or hair dye. Dr. Shirley-Williams did not attribute appellant's dermatitis to her employment. In a series of notes dated December 5, 2017, and January 9 and 22, 2018, Dr. Butler diagnosed eczematous dermatitis on the dorsum of both hands with no specific aggravation or triggering factor. On February 5, 2018 he attributed appellant's hand dermatitis to a possible recent triggering event of dyeing her hair in November 2017. These reports did not attribute appellant's dermatitis to her accepted employment exposures or duties. Instead both Drs. Butler and Shirley-Williams indicated that appellant's dermatitis was either idiopathic or due to an allergy to hair dye. As these reports did not attribute the diagnosed condition to appellant's employment, they have no probative value on the issue of causal relationship and are insufficient to meet appellant's burden of proof in her occupational disease claim.¹¹

On February 26, 2018 Dr. Butler reviewed appellant's allergy testing and concluded that her PPDA or hair dye allergy was not playing a direct role in her hand dermatitis. He found that she had severe irritant dermatitis of the hands and wrists caused or aggravated by scrubbing her hands with antiseptics as part of her employment as an operating room technician. Dr. Butler concluded that the act of scrubbing with antiseptics on a daily basis as required for appellant's job had definitely caused or made manifest irritant eczematous dermatitis. While Dr. Butler opined that appellant's job duties caused or contributed to her diagnosed dermatitis, he did not offer medical rationale explaining how the accepted job duty caused the diagnosed condition.¹² He did not explain how the mechanism of injury would have physiologically caused the diagnosed condition.¹³ Thus, Dr. Butler's reports are insufficient to establish appellant's burden of proof.

The fact that a condition manifests itself during a period of employment is insufficient to establish causal relationship. Temporal relationship alone will not suffice. Entitlement to FECA benefits may not be based on surmise, conjecture, speculation, or on the employee's own belief of a causal relationship.¹⁴ The Board finds that the record lacks rationalized medical evidence

⁹ *Id.*; *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

¹⁰ *Lourdes Harris*, 45 ECAB 545, 547 (1994).

¹¹ *T.H.*, Docket No. 18-1736 (issued March 13, 2019).

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*; *D.D.*, 57 ECAB 734 (2006).

establishing causal relationship between the implicated job duties and her diagnosed dermatitis.¹⁵ Thus, appellant has not met her burden of proof.

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 not met her burden of proof to establish that her diagnosed dermatitis is causally related to the accepted factors of her federal employment.

ORDER

IT IS HEREBY ORDERED THAT the May 7, 2018 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: June 14, 2019
Washington, DC

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

Patricia H. Fitzgerald, Deputy Chief Judge
Employees' Compensation Appeals Board

Janice B. Askin, Judge
Employees' Compensation Appeals Board

¹⁵ *Id.*; *J.S.*, Docket No. 17-0507 (issued August 11, 2017).