U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of JAMES E. MINER and DEPARTMENT OF THE NAVY, MARINE CORPS, Parris Island, SC

*Docket No. 01-1784; Submitted on the Record;*
*Issued March 4, 2002*

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DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,
WILLIE T.C. THOMAS

The issue is whether appellant sustained an injury on August 24, 1998 causally related to factors of his employment.

The Board finds that appellant failed to meet his burden of proof to establish that he sustained an injury on August 24, 1998 causally related to factors of his employment.

An award of compensation may not be based on surmise, conjecture, speculation or appellant's belief of causal relationship.[1] Appellant has the burden of establishing by the weight of the reliable, probative and substantial evidence that he sustained an injury in the performance of duty and that his disability was caused or aggravated by his employment.[2] As part of this burden, a claimant must present rationalized medical opinion evidence, based on a complete factual and medical background, showing causal relationship.[3] The mere manifestation of a condition during a period of employment does not raise an inference of causal relationship between the condition and the employment.[4] Neither the fact that the condition became apparent during a period of employment nor appellant's belief that the employment caused or aggravated his condition is sufficient to establish causal relationship.[5]

On December 2, 2000 appellant, then a 46-year-old laborer, filed a claim for compensation alleging that on August 24, 1998 he injured his back, neck and left leg after sitting

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[1] *See William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

[2] *See Daniel R. Hickman*, 34 ECAB 1220, 1223 (1983).

[3] *See Mary J. Briggs*, 37 ECAB 578, 581 (1986); *Joseph T. Gulla*, 36 ECAB 516, 519 (1985).

[4] *See Edward E. Olson*, 35 ECAB 1099, 1103 (1984).

[5] *Id.*

on a lawn mower for a long period of time. He stated that the bouncing and vibration of the lawnmower caused pain and burning in his back, neck pain and numbness in his left leg.

By decision dated May 21, 2001, the Office of Workers' Compensation Programs denied appellant's claim on the grounds that the evidence of record failed to establish that he sustained a medical condition resulting from the August 24, 1998 work incident.

In a form report dated August 25, 1998, Dr. Christian W. Jansen indicated that appellant sustained a "recurrence of back injury" on August 24, 1998. He checked the block marked "yes," indicating that the condition was related to his employment. However, the Board has held that an opinion on causal relationship which consists only of checking "yes" to a form report question on whether the claimant's disability was related to the history given is of little probative value.[6] Without any explanation or rationale, such a report has little probative value and is insufficient to establish causal relationship.[7] Therefore, this report is not sufficient to discharge appellant's burden of proof.

In another report dated August 25, 1998, which is largely illegible, Dr. Jansen indicated that appellant had low back pain the previous day. However, he did not provide a diagnosis or a rationalized explanation of how appellant's condition was causally related to the work incident on August 24, 1998. Therefore, this report is insufficient to establish that appellant sustained an injury on August 24, 1998 causally related to his employment.

In a report dated June 30, 1999, Dr. Eugene A. Eline, Jr., stated that appellant injured his lower back at work after riding on a lawn mower for an extensive period of time. He stated that when appellant got off the lawn mower he felt a severe pain and a pop and explosive-like sensation in his back and left leg pain. Dr. Eline stated that x-rays and a magnetic resonance imaging scan revealed a severe left-sided L5-S1 disc herniation with left lower extremity involvement and stated his opinion that appellant's job caused his herniated disc. However, Dr. Eline did not mention the August 24, 1998 date and did not provide findings on examination or a rationalized medical explanation as to how appellant's job caused the disc herniation. Therefore, this report is not sufficient to discharge appellant's burden of proof.

Appellant submitted excerpts from a September 7, 2000 deposition of Dr. Eline that was submitted in a civil case filed against the employing establishment in federal court. In the deposition excerpts, Dr. Eline indicated that appellant's August 24, 1998 work incident and a work incident on April 8, 1998 contributed to a ruptured disc at L5-S1 with radiculopathy into his legs and related surgery performed on July 12, 1999. However, this evidence does not contain a rationalized medical opinion explaining how appellant's ruptured disc and July 1999 surgery were caused or aggravated by the August 24, 1998 work incident. Therefore, it is insufficient to establish that appellant sustained an injury on August 24, 1998 causally related to his employment.

[6] *See Donald W. Long*, 41 ECAB 142, 146 (1989).

[7] *Id.*

Appellant also submitted reports from a physical therapist. However, a physical therapist is not a "physician" as defined in the Federal Employees' Compensation Act.[8] Lay individuals such as physician assistants, nurse practitioners and social workers are not competent to render a medical opinion.[9] Therefore, this evidence is of no probative value in this case.

Appellant also submitted medical reports that do not mention the work incident on August 24, 1998. Therefore, this evidence is of no probative value in this case.

The May 21, 2001 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, DC
March 4, 2002

Michael J. Walsh
Chairman

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member

[8] As defined by the Act in 5 U.S.C. § 8101(2), "physician" includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors and osteopathic practitioners within the scope of their practice as defined by state law.

[9] *See Sheila Arbour*, 43 ECAB, 779, 788 (1992); *Barbara J. Williams*, 40 ECAB 649, 657 (1989).