

The employing establishment stated that Dr. John Stovell provided medical treatment on April 7, 2005 and placed appellant on limited duty as of that date.

By letter dated April 29, 2005, the Office informed appellant of the evidence needed to support his claim and requested that he submit such evidence within 30 days. No response was received.

By decision dated May 31, 2005, the Office accepted that appellant performed work as described but denied the claim on the grounds that he failed to submit medical evidence to establish that he sustained a medical condition caused or aggravated by his federal employment duties.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act¹ has the burden of establishing 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 the Act, that the claim was timely filed within the applicable time limitation period of the Act, 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.² 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.³

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 employment factors identified by the claimant were the proximate cause of the condition for which compensation is claimed or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant. The medical evidence required to establish causal relationship, generally, is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the claimant, 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.⁴

¹ 5 U.S.C. §§ 8101-8193.

² *Joe D. Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

³ *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁴ *Id.*

ANALYSIS

Appellant filed a claim for an occupational disease on April 8, 2005. The Office, on April 29, 2005, advised appellant that his claim was insufficient because it had not received any medical evidence from a treating physician diagnosing a condition causally related to his federal employment. In the April 29, 2005 letter, the Office listed specific questions and provided him 30 days to submit additional evidence in support of the claim. However, appellant did not respond within the time allotted.

It is not disputed that appellant engages in lifting, pulling, stooping and standing as part of his employment. However, appellant's burden of proof also includes the necessity to submit medical evidence establishing that a diagnosed condition is causally related to the employment factors identified. Appellant did not submit any medical evidence prior to issuance of the Office's May 31, 2005 decision. Because there is no medical evidence to support that factors of his employment caused or aggravated a bilateral knee condition, appellant has not met his burden of proof. He has failed to establish a *prima facie* claim.

CONCLUSION

The Board finds that appellant has not met his burden of proof to establish that he sustained an employment injury in the performance of duty.

ORDER

IT IS HEREBY ORDERED THAT the May 31, 2005 decision of the Office of Workers' Compensation Programs is affirmed.⁵

Issued: April 3, 2006
Washington, DC

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

David S. Gerson, Judge
Employees' Compensation Appeals Board

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

⁵ The Board notes that the case record contains evidence which the Office received after issuance of its May 31, 2005 decision. The Board has no jurisdiction to review this evidence for the first time on appeal; *see* 20 C.F.R. § 501.2(c); *James C. Campbell*, 5 ECAB 35, 36 n.2 (1952). This decision of the Board does not preclude appellant from having any such evidence considered by the Office as part of reconsideration before the Office. *See* 20 C.F.R. § 10.606.