United States Department of Labor
Employees' Compensation Appeals Board

J.S., Appellant	)	
and	)	**Docket No. 06-805**
	)	**Issued: August 11, 2006**
U.S. POSTAL SERVICE, POST OFFICE, Flower Mound, TX, Employer	)	

Appearances:
J.S., pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Chief Judge
DAVID S. GERSON, Judge
MICHAEL E. GROOM, Alternate Judge

JURISDICTION

On February 15, 2005 appellant filed a timely appeal from a decision of the Office of Workers' Compensation Programs dated January 17, 2006, denying her claim on the grounds that the evidence was insufficient to establish a causal relationship between her asthma attack and the accepted November 19, 2005 employment incident. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

ISSUE

The issue is whether appellant has established that her asthma attack was caused or aggravated by the November 19, 2005 employment incident.

FACTUAL HISTORY

On November 19, 2005 appellant, a 44-year-old rural letter carrier, filed a traumatic injury claim alleging that on that day she became extremely short of breath while "exposed to Simple Green," which she stated she is "extremely allergic to." The employing establishment noted that appellant had a history of asthma.

On December 3, 2005 the Office received a November 19, 2005 injury/accident call-in worksheet, a November 21, 2005 Texas Workers' Compensation work status report, a November 18, 2005 rehabilitation prescription, a November 19, 2005 election to receive medical care by a Dr. Atchley, a November 19, 2005 authorization for examination and/or treatment (Form CA-16), a November 19, 2005 emergency department discharge instructions, a November 21, 2005 duty status report (Form CA-17) and a November 21, 2005 attending physician's report (Form CA-16) by Dr. Parchell D. Connally, a treating Board-certified physiatrist.

In a November 19, 2005 injury/accident call-in worksheet, David Neville, appellant's supervisor, reported that she had an asthma attack on November 19, 2005 which was caused by "Simple Green Cleaning Product being used in [the] facility."

The November 21, 2005 Texas Workers' Compensation work status report was completed by Dr. Connally, who released appellant to work as of November 21, 2005.

The record reveals that Mr. Neville, supervisor customer service and serving as appellant's supervisor, completed the Form CA-16 on November 19, 2005, authorizing appellant to acquire medical treatment up to 60 days from that date because of her exposure "to Simple Green Cleaner which resulted in an asthma attack." He checked the box indicating there was doubt as to whether appellant's condition was sustained in the performance of duty.

In the November 21, 2005 attending physician's report, Form CA-16, Dr. Connally diagnosed an undefined allergic reaction and noted that appellant had a history of asthma. With regards to whether the condition was caused or aggravated by the employment incident he stated that it was "unclear of exact cause of allergic reaction."

In a letter dated December 13, 2005, the Office informed appellant that the evidence was insufficient to support her claim and advised her as to the factual and medical evidence required. She was given 30 days to submit the requested evidence. No response was received.

In a decision dated January 17, 2006, the Office denied appellant's claim on the grounds that she failed to establish that the diagnosed condition was causally related to the accepted employment incident.[1]

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act[2] has the burden of establishing the essential elements of 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 filed within applicable time limitation; that an injury was sustained while in the performance of duty as

[1] The Board notes that, following the January 17, 2006 decision, the Office received additional evidence. However, the Board may not consider new evidence on appeal. *See* 20 C.F.R. § 501.2(c); *Donald R. Gervasi*, 57 ECAB ___ (Docket No. 05-1622, issued December 21, 2005); *Rosemary A. Kayes*, 54 ECAB 373 (2003).

[2] 5 U.S.C. §§ 8101-8193.

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 on a traumatic injury of an occupational disease.[4]

In order to determine whether an employee actually sustained an injury in the performance of duty, the Office begins with an analysis of whether fact of injury has been established. Generally, fact of injury consists of two components, which must be considered in conjunction with one another. The first component to be established is that the employee actually experienced the employment incident or exposure, which is alleged to have occurred.[5] In order to meet her burden of proof to establish the fact that she sustained an injury in the performance of duty, an employee must submit sufficient evidence to establish that she actually experienced the employment injury or exposure at the time, place and in the manner alleged.

The second component is whether the employment incident caused a personal injury and generally can be established only by medical evidence.[6] The evidence required to establish causal relationship is rationalized medical opinion evidence, based upon complete factual and medical background, showing a causal relationship between the claimed condition and the identified factors.[7] The belief of the claimant that a condition was caused or aggravated by the employment is insufficient to establish a causal relationship.[8]

ANALYSIS

In the instant case, the Office found that appellant experienced the November 19, 2005 employment incident. However, it denied the claim because of her failure to submit medical evidence diagnosing a condition caused or aggravated by the November 19, 2005 employment incident.

Initially, the Board notes that the Federal (FECA) Procedure Manual provides that Office Form CA-16 is the official form for authorizing examination or treatment at the expense of the Compensation Fund. It is used primarily by the official supervisor to refer an employee injured

[3] *Phillip L. Barnes*, 55 ECAB ___ (Docket No. 02-1441, issued March 31, 2004); *Joe D. Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

[4] *See Ellen L. Noble*, 55 ECAB ___ (Docket No. 03-1157, issued May 7, 2004); *Irene St. John*, 50 ECAB 521 (1999); *Michael E. Smith*, 50 ECAB 313 (1999); *Elaine Pendleton*, *supra* note 3.

[5] Federal (FECA) Procedure Manual, Part 2 -- Claims, *Fact of Injury*, Chapter 2.803(2)(a) (June 1995); *see also Ellen L. Noble*, *supra* note 4.

[6] *John J. Carlone*, 41 ECAB 354 (1989); *see* 5 U.S.C. § 8101(5) (injury defined); 20 C.F.R. §§ 10.5(ee), 10.5(q) (traumatic injury and occupational disease defined).

[7] *Lourdes Harris*, 45 ECAB 545 (1994); *see Walter D. Morehead*, 31 ECAB 188 (1979).

[8] *Charles E. Evans*, 48 ECAB 692 (1997).

by accident to a local qualified private physician or hospital of the employee's choice.[9] The Office's regulations provide that Form CA-16 shall be used primarily for traumatic injuries,[10] and that, in order to be valid, a Form CA-16 must give the full name and address of the duly qualified physician or medical facility authorized to provide service and must be signed and dated by the authorizing official.[11] The period for which treatment is authorized by Form CA-16 is limited to 60 days from the date of issuance, unless terminated earlier by the Office.[12]

The regulations also provide for the use of Form CA-16 by the employing establishment for authorization of medical treatment in "doubtful cases" in order to secure necessary diagnostic study and emergency treatment pending receipt of advice from the Office. The regulations state in pertinent part:

> "If the employer doubts that the injury occurred, or that it is work related, he or she should authorize medical care by completing Form CA-16 and checking block 6B of the form."[13]

In the instant case, the employing establishment properly issued the Form CA-16 and checked 6B of the form as it doubted that appellant's asthma had been caused or aggravated by employment factors. Therefore, appellant is entitled to payment of medical treatment provided by Dr. Connally pursuant to the Form CA-16.[14]

In order to satisfy her burden of proof, appellant must submit a physician's rationalized medical opinion on the issue of whether her asthma condition was caused or aggravated by the November 19, 2005 employment incident. The Board finds that appellant failed to submit such evidence.

The medical evidence relevant to her claim includes a November 21, 2005 attending physician's report (Form CA-16) by Dr. Connally, a treating Board-certified physiatrist. In fact, the only medical opinion containing a diagnosis and addressing the cause of the diagnosed condition was a November 21, 2005 attending physician's report by Dr. Connally. He noted a history of asthma, diagnosed an undefined allergic reaction and concluded that it was

[9] Federal (FECA) Procedure Manual, Part 3 -- Medical Examinations, *Official Authorization for Examination and/or Treatment*, Chapter 3.300(1) (October 1978).

[10] 20 C.F.R. § 10.300(a).

[11] 20 C.F.R. § 10.300(c).

[12] *Id.*

[13] 20 C.F.R. § 10.302.

[14] 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, the Form CA-16 creates a contractual obligation, which does not involve the employee directly, to pay for the cost of the examination or treatment regardless of the action taken on the claim. *Tracey P. Spillane*, 54 ECAB 608 (2003).

"unclear of exact cause of allergic reaction." The fact that the etiology of a disease is unknown or obscure does not shift the burden of proof to the Office so as to require it to disprove an employment relation.[15] It would follow then that neither does the absence of a known etiology for her asthma attack relieve appellant of the burden of establishing a causal relation by the weight of the evidence, which includes affirmative medical opinion based on the material facts with supporting rationale.[16] As appellant has failed to submit any medical evidence supporting a causal relationship between the diagnosed asthma attack and the November 19, 2005 incident, she has failed to meet her burden of proof that she sustained an injury in the performance of duty, as alleged.

CONCLUSION

The Board finds that appellant has failed to establish that her asthma attack was caused or aggravated by the November 19, 2005 employment incident.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated January 17, 2006 is affirmed, as modified.

Issued: August 11, 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

[15] *See Romeo E. Pena*, 35 ECAB 850 (1984).

[16] *Id.*