United States Department of Labor
Employees' Compensation Appeals Board

G.G., Appellant	)	
and	)	**Docket No. 06-1564**
	)	**Issued: February 27, 2007**
DEPARTMENT OF THE ARMY, ARMY RESERVES, San Antonio, TX, Employer	)	

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

Case Submitted on the Record

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Chief Judge
MICHAEL E. GROOM, Alternate Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On June 29, 2006 appellant filed a timely appeal from the Office of Workers' Compensation Programs merit decision dated April 19, 2006. 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 she sustained a neck injury in the performance of duty on January 11, 2006.

FACTUAL HISTORY

On January 19, 2006 appellant, then a 46-year-old logistics management specialist, filed a traumatic injury claim (Form CA-1) alleging that she sustained an injury on January 11, 2006. She stated she lost her balance walking down stairs and twisted her body, causing a neck injury. Appellant submitted an emergency room report dated January 13, 2006 from Dr. Howard Wells, an emergency medicine specialist, diagnosing a sprained neck.

In a letter dated March 8, 2006, the Office requested appellant to submit additional evidence, including a medical report with a physician's opinion on causal relationship between a work incident and the claimed injury. Appellant submitted additional emergency room reports dated January 13, 2006. A report signed by Dr. Wells provided a history of neck pain since January 11, 2006 when appellant almost fell and jerked her body. He diagnosed acute cervical myofascial strain. Appellant also submitted a "nursing assessment" dated January 13, 2006 from the hospital.

By decision dated April 19, 2006, the Office denied the claim for compensation. The Office found that the medical evidence was insufficient to establish an injury in the performance of duty on January 11, 2006.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act[1] has the burden of establishing that he or she sustained an injury while in the performance of duty.[2] 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 which is alleged to have occurred. The second component is whether the employment incident caused a personal injury and generally this can be established only by medical evidence.[3]

The Office's procedures recognize that a claim may be accepted without a medical report when the condition is a minor one which can be identified on visual inspection.[4] In clear-cut traumatic injury claims, such as a fall resulting in a broken arm, a physician's affirmative statement is sufficient and no rationalized opinion on causal relationship is needed. In all other traumatic injury claims, a rationalized medical opinion supporting causal relationship is required.[5]

Rationalized medical opinion evidence is medical evidence that includes a physician's rationalized opinion on the issue of whether there is a causal relationship between a diagnosed condition and the identified employment factor. The opinion of the physician must be based on a complete factual and medical background, must be of reasonable medical certainty and

[1] 5 U.S.C. §§ 8101-8193.

[2] *Melinda C. Epperly*, 45 ECAB 196, 198 (1993); *see also* 20 C.F.R. § 10.115.

[3] *See John J. Carlone*, 41 ECAB 354, 357 (1989).

[4] Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3(d) (June 1995).

[5] *Id.*

supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.[6]

ANALYSIS

The Office does not appear to dispute that an incident occurred as alleged on January 11, 2006. Appellant stated that she was walking down stairs when she lost her balance and twisted her body and there is no contrary evidence. She must, however, submit probative medical evidence on the issue of causal relationship between a diagnosed condition and the employment incident. This is not an injury that can be identified on visual inspection or a clear cut injury requiring only an affirmative statement. Appellant must submit rationalized medical evidence in support of her claim.

The evidence of record submitted prior to the April 19, 2006 decision does not provide a rationalized medical opinion.[7] Dr. Wells noted on January 13, 2006 a history of appellant jerking her body and nearly falling on January 11, 2006 and he diagnosed a cervical strain. He did not, however, provide any opinion on causal relationship between the diagnosed condition and a January 11, 2006 employment incident. While a physician's opinion regarding a cervical strain may not require extensive medical rationale, there must be an opinion on causal relationship based on an accurate factual and medical background and with supporting explanation. The record does not contain a physician's rationalized medical opinion in this case.[8] The Board finds appellant did not meet her burden of proof and the Office properly denied the claim.

CONCLUSION

Appellant did not submit sufficient medical evidence to meet her burden of proof in establishing an injury in the performance of duty on January 11, 2006.

[6] *Jennifer Atkerson,* 55 ECAB 317, 319 (2004).

[7] The Board notes that the case record contains evidence that was submitted subsequent to the Office's April 19, 2006 decision. The Board has no jurisdiction to review evidence that was not before the Office at the time of its final decision; *see* 20 C.F.R. § 501.2(c); *James C. Campbell*, 5 ECAB 35 (1952).

[8] The opinion must be from a physician under the Act. *See* 5 U.S.C. § 8101(2). Nurses are not physicians under the Act and are not competent to render a medical opinion. *See Vincent Holmes,* 53 ECAB 468 (2002).

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated April 19, 2006 is affirmed.

Issued: February 27, 2007
Washington, DC

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

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

James A. Haynes, Alternate Judge
Employees' Compensation Appeals Board