United States Department of Labor
Employees' Compensation Appeals Board

W.P., Appellant	)	
and	)	**Docket No. 06-2011**
	)	**Issued: February 8, 2007**
DEPARTMENT OF THE NAVY, PORTSMOUTH NAVAL SHIPYARD, Portsmouth, VA, Employer	)	

Appearances:
Appellant, pro se
Miriam Ozur, Esq., for the Director

Oral Argument January 17, 2007

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Chief Judge
DAVID S. GERSON, Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On August 29, 2006 appellant filed a timely appeal of a January 27, 2006 merit decision of the Office of Workers' Compensation Programs. 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 met his burden of proof to establish a back injury causally related to factors of his federal employment.

FACTUAL HISTORY

On June 18, 2002 appellant filed an occupational disease claim (Form CA-2), alleging that he sustained sciatica as a result of his federal employment as a nuclear engineer. The claim form indicated that he became aware of the condition on December 16, 2001. Appellant indicated that his condition resulted from sitting at work for approximately seven and one half hours per day. He submitted an April 4, 2002 lumbar magnetic resonance imaging (MRI) scan

from Dr. M. Reed Knight, a radiologist, stating that there was no lesion in the lumbar spine to account for the reported left buttock and leg pain. By statement dated August 1, 2002, appellant reported that he had back and left leg pain beginning December 16, 2001 that continued daily after he got to work. He stated that his job required sitting at a computer seven to eight hours per day with little back support.

By decision dated December 17, 2002, the Office denied the claim on the grounds that the medical evidence was not sufficient to establish the claim. Appellant requested an oral hearing before an Office hearing representative on April 8, 2003. In a decision dated November 10, 2003, the Office's Branch of Hearings and Review found that the hearing request was untimely and appellant could request reconsideration.

On appeal, the Board remanded the case by order dated February 16, 2005. The Board noted that the Director had acknowledged that the December 17, 2002 decision was not properly mailed to the address of record. The case was remanded for the Office to conduct a hearing and issue a decision on the merits.

By letter dated November 7, 2005, appellant requested a review of the written record. He submitted treatment notes from the employing establishment health unit. In a noted dated January 16, 2002, Dr. Ernest Fair indicated that appellant reported left leg pain starting on December 16, 2001 and he prescribed pain medication. A January 18, 2002 note from another employing establishment physician, Dr. Ramon Baez, noted continuing left leg pain and indicated that appellant would have an MRI scan. He stated in an April 10, 2002 treatment note that appellant needed to see his own physician for further evaluation. An accompanying unsigned note stated that, based on the MRI scan results, "it appears that appellant] does not have a work-related back injury."

By decision dated January 27, 2006, the Office hearing representative found that the medical evidence did not establish an employment injury. The hearing representative also determined that appellant was not entitled to reimbursement for the MRI scan.

LEGAL PRECEDENT

A claimant seeking benefits under the Federal Employees' Compensation Act[1] has the burden of establishing the essential elements of his claim by the weight of the reliable, probative and substantial evidence, including that an injury was sustained in the performance of duty as alleged and that any specific condition or disability claimed is causally related to the employment injury.[2]

To establish that an injury was sustained in the performance of duty, a claimant must submit: (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;

[1] 5 U.S.C. §§ 8101-8193.

[2] 20 C.F.R. § 10.115(e), (f) (2005); *see Jacquelyn L. Oliver*, 48 ECAB 232, 235-36 (1996).

and (3) medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant.[3]

Causal relationship is a medical question that can generally be resolved only by rationalized medical opinion evidence.[4] A physician's opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors must be based on a complete factual and medical background of the claimant.[5] Additionally, in order to be considered rationalized, the opinion must be expressed in 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 appellant's specific employment factors.[6]

Section 8103(a) of the Act provides that the United States shall furnish to an employee who is injured while in the performance of duty, the services, appliances and supplies prescribed or recommended by a qualified physician, which the Office considers likely to cure, give relief, reduce the degree or the period of disability or aid in lessening the amount of the monthly compensation.[7]

ANALYSIS

Appellant filed an occupational disease claim for a back injury causally related to sitting at his computer while at work. He indicated that he first experienced symptoms on December 16, 2001. The Office does not contest that appellant's job involves sitting at his computer for extended periods. The issue is whether appellant has established a diagnosed condition as causally related to the employment factor.

The treatment notes from the employing establishment health unit do not provide a reasoned medical opinion, based on an accurate background, with respect to causal relationship. Appellant received treatment on January 16 and 18 and April 10, 2002 and he reported back and leg symptoms commencing December 16, 2001. These notes do not provide a diagnosis or a medical opinion supporting causal relationship between a diagnosed condition and the identified work factor. The unsigned note accompanying the April 10, 2002 treatment note, even if it were accepted as prepared by Dr. Baez or the other physician, did not support causal relationship with employment.[8] Based on the evidence of record, appellant did not meet his burden of proof to establish a back condition causally related to his federal employment.

[3] *Ruby I. Fish*, 46 ECAB 276, 279 (1994).

[4] *See Robert G. Morris*, 48 ECAB 238 (1996).

[5] *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

[6] *Id.*

[7] 5 U.S.C. § 8103(a).

[8] Medical evidence lacking a signature or proper identification is of no probative medical value. *Thomas L. Agee*, 56 ECAB __ (Docket No. 05-335, issued April 19, 1985).

On appeal, appellant's primary concern was the issue of reimbursement for the April 4, 2002 MRI scan. He argued that, since he was referred for the MRI scan by an employing establishment physician, it should be covered under the Act. While there may be circumstances where medical treatment can be authorized by the Office even if no employment-related condition is established, there is no evidence of such authorization in this case.[9] Medical treatment pursuant to section 8103 is provided for employees "injured while in the performance of duty." For the reasons noted above, appellant did not establish an injury in the performance of duty in this case. There is, therefore, no basis for reimbursement of the April 4, 2002 MRI scan or other medical treatment under the Act.

CONCLUSION

Appellant did not meet his burden of proof to establish an injury causally related to factors of his federal employment.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated January 27, 2006 is affirmed.

Issued: February 8, 2007
Washington, DC

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

David S. Gerson, Judge
Employees' Compensation Appeals Board

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

[9] *See* 20 C.F.R. § 300, which provides for authorization of medical treatment in certain circumstances through the issuance of a Form CA-16 by the employing establishment.