

U.S. Department of Labor

Occupational Safety and Health Administration
Washington, D.C. 20210



NOV 2 2006

Reply to the attention of:

Ms. Linda Ballas
7129 Nightingale Drive
Holland, OH 43528

Dear Ms. Ballas:

Thank you for your May 1, 2006 letter to the Occupational Safety and Health Administration (OSHA) regarding clarification of "determination of work relationship of a fainting episode and subsequent injury" with respect to the Injury and Illness Reporting and Recording requirements contained in 29 CFR Part 1904.

Scenario:

An employee is performing work activities and starts to walk down a flight of steps. The employee then experiences "a chill and then felt a hot flash" and falls down the steps, sustaining an injury which results in time away from work. The Plant Medical Director states that the employee fainted and the resulting fall down the steps caused the injury. The Plant Medical Director also believes the precipitating event of "fainting" was not related to work. There is no evidence that the employee had any pre-existing medical condition prior to the fall.

Response:

Section 1904.5 sets out the requirements employers must follow in determining whether an injury or illness is work-related. Paragraph 1904.5(a) states that an injury or illness must be considered work-related if an event or exposure in the work environment caused or contributed to the injury or illness, or significantly aggravated a pre-existing condition. Under OSHA's Part 1904 recordkeeping system, there is a geographic presumption that an injury or illness is work-related if such injury or illness results from events or exposures occurring in the work environment, unless an exemption listed in Section 1904.5(b)(2) specifically applies.

Paragraph 1904.5(b)(2) sets forth eight exceptions to the geographic presumption established in Section 1904.5(a). Included within the exceptions is paragraph 1904.5(b)(2)(ii), which provides that an injury or illness is not recordable if it involves signs or symptoms that surface at work but result solely from a non-work-related event or exposure that occurs outside the work environment. For this exception to apply, the work environment can not have caused, or contributed to, or significantly aggravated the injury or illness. The exception is intended to exclude the recording of injuries and illnesses when work makes no actual contribution.

Section 1904.5(b)(3) provides guidance to employers on applying the geographic presumption when it is not clear whether the event or exposure that precipitated the injury or illness occurred in the work environment or elsewhere. Under 1904.5(b)(3), the employer must examine the employee's work duties and environment to determine whether it is more likely than not that one or more events or exposures at work caused or contributed to the condition. Thus, if an

employee falls while walking down a flight of steps, the resulting injury is considered work-related under the geographic presumption because the precipitating event – the falling accident – occurred in the workplace. The case is work-related even if the employer cannot determine why the employee fell, or whether any particular workplace hazard caused the accident to occur.

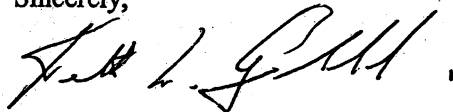
Based on the information included in your letter, the employee was in the work environment and conducting work activities at the time of his fall down the steps. This fact would establish the geographic presumption that the resulting injury is work related, unless one of the exemptions in section 1904.5(b)(2) can be established. As such, the injury would be considered work-related and recordable, provided the injury meets the general recording criteria set forth in Section 1904.7. We note that the injury resulting from the fall down the steps required days away from work.

With respect to application of the exemption for “symptoms that surface at work but result solely from a non-work-related event or exposure that occurs outside the work environment” set forth at 1904.5(b)(2)(ii), your letter indicates that there is no record of any medical condition prior to the employee falling down the steps; nor is there any evidence of an event or exposure that occurred outside the work environment. Based on the information described in your letter, the work environment contributed to the injury and the exception in section 1904.5(b)(ii) does not apply.

Please keep in mind that recordable injuries and illnesses can occur at work that have no clear connection to a specific work activity, condition, or substance that is peculiar to the work environment. For example, an employee may trip for no apparent reason while walking across a level factory floor; be sexually assaulted by a co-worker; or be injured accidentally as a result of an act of violence perpetrated by one co-worker against a third party. In these and similar cases, the employee’s job related tasks or exposures did not cause or contribute to the risk that such an injury would occur. Instead, a causal connection is established by the fact that the injury would not have occurred but for the conditions and obligations of employment that placed the employee in the position in which he or she was injured or made ill.

Thank you for your interest in occupational safety and health. We hope you find this information helpful. OSHA requirements are set by statute, standards, and regulations. Our interpretation letters explain these requirements and how they apply to particular circumstances, but they cannot create additional employer obligations. This letter constitutes OSHA’s interpretation of the requirements discussed. Note that our enforcement guidance may be affected by changes to OSHA rules. In addition, from time to time we update our guidance in response to new information. To keep apprised of such developments, you can consult OSHA’s website at <http://www.osha.gov>. If you have any further questions, please contact the OSHA Office of Statistical Analysis at (202) 693-1876.

Sincerely,



Keith L. Goddard, Director