

**United States Department of Labor
Employees' Compensation Appeals Board**

T.L., Appellant)

and)

**U.S. POSTAL SERVICE, POST OFFICE,
Crocker, MO, Employer**)

**Docket No. 13-1811
Issued: November 26, 2013**

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

Case Submitted on the Record

DECISION AND ORDER

Before:

RICHARD J. DASCHBACH, Chief Judge
COLLEEN DUFFY KIKO, Judge
PATRICIA HOWARD FITZGERALD, Judge

JURISDICTION

On July 30, 2013 appellant filed a timely appeal from the June 21, 2013 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act¹ (FECA) and 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 her burden of proof to establish that the additional medical conditions for which she claims compensation are causally related to her October 27, 2007 employment injury.

FACTUAL HISTORY

On October 27, 2007 appellant, a 52-year-old temporary relief carrier, sustained a traumatic injury in the performance of duty when, during an unexplained syncope episode, her

¹ 5 U.S.C. § 8101 *et seq.*

vehicle veered off a gravel road and struck a large tree. An October 28, 2007 hospital report related the history of her injury and her current complaints and described her findings on physical examination. The impression was: "Apparent syncope causing motor vehicle accident, resulting in nasal fracture and bilateral periorbital ecchymosis and multiple other ecchymoses/abrasions. The syncope is of uncertain etiology."

OWCP accepted appellant's claim for a closed nasal bone fracture, bilateral periorbital ecchymosis and multiple unspecified abrasions.

In 2008, appellant asked OWCP to expand the acceptance of her claim to include a number of other medical conditions or injuries.² She stated that the medical treatment she received was for the injuries that occurred within her vehicle, which she detailed.

An OWCP medical adviser reviewed the medical record and noted that appellant's syncope was not causally related to her federal employment.

On February 12, 2009 appellant requested medical treatment for her fractured nose, which changed the appearance of her face and caused difficulty breathing. She also wanted to see a specialist for the cracking/popping noises in her neck. Appellant also had several problems with muscle spasms, headaches and pain.

OWCP advised appellant that, for her claim to be expanded to include additional medical conditions, she needed to submit a comprehensive medical report from a physician who offered an opinion, supported by a medical explanation, as to how the newly claimed conditions were caused, aggravated or accelerated by the October 27, 2007 motor vehicle accident. It emphasized that this medical explanation was crucial to her claim.

In a decision dated March 7, 2013, OWCP denied appellant's claim for additional medical conditions. It noted that she did not respond to its request for supporting medical evidence.

Appellant requested a review of the written record by an OWCP hearing representative. She explained that her concern was not the syncope; she wanted further medical care for her closed nasal fracture and ecchymosis. Appellant added that the motor vehicle accident was the beginning of many problems, including memory failure, headaches, neck and shoulder pain, popping and muscle spasms, driving anxiety and a noticeable change in her left ear hearing and her right ear. She asked to see a neurologist for her head injury and a plastic surgeon for her nose. Appellant stated: "I feel/know the medical issues are extended from the USPS vehicle accident on 10/27/2007."

Appellant submitted an October 29, 2007 magnetic resonance imaging (MRI) scan report finding a small remote lacunar infarct versus prominent perivascular space in the left basal

² "Concussion NOS [not otherwise specified]", postconcussion syndrome, syncope and collapse, "CRBL ART OCL NOS W INFRCT," contusion to the face/scalp/neck, "OCL CRTD ART WO INFRCT," head injury, fracture facial bone NEC-closed, ELB/forearm/wrist INJ NOS, face and neck injury, cervical disc DEGN, transcervical fracture closed, injury of chest wall NEC, cervical GIA and nasal bone fracture-closed.

ganglia, as well as a mild scalp signal abnormality consistent with her known scalp hematoma. She also submitted an emergency room record dated October 28, 2007.

In a decision dated June 21, 2013, the hearing representative affirmed the denial of appellant's claim for additional medical conditions. The hearing representative found that she had provided no reasoned medical opinion evidence to establish a causal relationship between any of the medical conditions she had listed and her motor vehicle accident. Appellant's belief that they were caused or aggravated by the accident was not sufficient.

On appeal, appellant states that she will probably need reconstructive surgery to fix her nose. She states that she immediately noted hearing, sight and memory problems and she knows that her head injury has caused memory and depression problems. Appellant states that she could not afford the MRI scan the neurologist wanted to do. She requests to see a neurologist and a nose specialist. "I am asking you to review the accident injuries and allow me to make appointments paid by workman's compensation to see a 'nasal' doctor, for repairs from injury. I feel I should receive some compensation for the facial changes as well as PTSD [post-traumatic stress syndrome]."

LEGAL PRECEDENT

FECA provides compensation for the disability of an employee resulting from personal injury sustained while in the performance of his or her duty.³ A claimant seeking compensation under FECA has the burden of establishing the essential elements of his or her claim by the weight of the reliable, probative and substantial evidence,⁴ including that he or she sustained an injury in the performance of duty and that any specific condition or disability for work for which he or she claims compensation is causally related to that employment injury.⁵

The evidence generally required to establish causal relationship is rationalized medical opinion evidence. The medical opinion must be based on a complete factual and medical background with an accurate history of the claimant's employment injury and must explain from a medical perspective how the current condition is related to the injury.⁶

ANALYSIS

Following appellant's October 27, 2007 motor vehicle accident, OWCP accepted her claim for a closed nasal bone fracture, bilateral periorbital ecchymosis and multiple unspecified abrasions. This was consistent with impression offered by the October 28, 2007 narrative hospital report. Appellant believes, however, that the accident has caused other medical conditions and she has asked OWCP to expand its acceptance of her claim to include them.

³ 5 U.S.C. § 8102(a).

⁴ *Nathaniel Milton*, 37 ECAB 712 (1986); *Joseph M. Whelan*, 20 ECAB 55 (1968) and cases cited therein.

⁵ *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

⁶ *John A. Ceresoli, Sr.*, 40 ECAB 305 (1988).

Appellant has the burden of proof to establish that the additional medical conditions for which she claims compensation are causally related to the October 27, 2007 motor vehicle accident. Causal relationship is a medical issue. Appellant must submit a report from a physician who discusses, with sound medical reasoning, whether the accident caused any of the additional medical conditions.

Appellant has submitted no such evidence. In the absence of any medical opinion evidence supporting the critical element of causal relationship, the Board must affirm OWCP's decision to deny the expansion of her claim. Appellant has not met her burden of proof.

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

There is another aspect to appellant's claim. Not only has she asked OWCP to expand its acceptance to include a number of other medical conditions, which OWCP has adjudicated and the Board has reviewed, she also seeks authorization for medical services related to her accepted employment injuries, including a referral to a nose physician for possible reconstructive surgery. Section 8103(a) of FECA 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 that the Secretary of Labor considers likely to cure, give relief, reduce the degree or the period of any disability or aid in lessening the amount of any monthly compensation.⁷

As OWCP has not addressed this aspect of the claim, the Board will remand this aspect of the case for further consideration.

CONCLUSION

The Board finds that the appellant has not met her burden of proof to establish that the additional medical conditions for which she claims compensation are causally related to her October 27, 2007 employment injury. Further action is warranted, however, on her request for authorization for medical services related to the accepted conditions.

⁷ 5 U.S.C. § 8103(a).

ORDER

IT IS HEREBY ORDERED THAT the June 21, 2013 decision of the Office of Workers' Compensation Programs is affirmed. The case is remanded for further action consistent with this decision of the Board.

Issued: November 26, 2013
Washington, DC

Richard J. Daschbach, Chief Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

Patricia Howard Fitzgerald, Judge
Employees' Compensation Appeals Board