United States Department of Labor
Employees' Compensation Appeals Board

V.S., Appellant	)	
and	)	**Docket No. 14-265**
	)	**Issued: June 20, 2014**
U.S. POSTAL SERVICE, POST OFFICE, Versailles, KY, Employer	)	

Appearances:
Alan J. Shapiro, Esq., for the appellant
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

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

JURISDICTION

On November 18, 2013 appellant, through her attorney, filed a timely appeal from the October 9, 2013 merit decision of the Office of Workers' Compensation Programs (OWCP), which denied her claim. Pursuant to the Federal Employees' Compensation Act[1] (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction to review the merits of this case.

ISSUE

The issue is whether appellant sustained an injury in the performance of duty on December 4, 2012.

FACTUAL HISTORY

On December 4, 2012 appellant, a 48-year-old rural carrier associate, filed a traumatic injury claim alleging that she injured her left lower back nerves that day when she slipped while getting out of her truck to deliver a parcel. She slipped on a wet step and fell out of her vehicle.

[1] 5 U.S.C. § 8101 *et seq.*

Appellant landed on her knee and fell over on her side "jarring my entire body." She delivered the package, collected herself, called her supervisor, continued her route, but was unable to finish it. Appellant stopped work and went to the emergency room.

Six months earlier, a medical report noted that appellant had a six-year history of chronic back pain "and worse." She was diagnosed with spinal stenosis of the lumbar region (primary), degeneration of lumbar or lumbosacral intervertebral disc, thoracic or lumbosacral neuritis or radiculitis (unspecified) and sciatica. Appellant stated that she had a left lumbar facet nerve rhizotomy on November 27, 2012.

On December 5, 2012 Dr. Saroj B. Dubal, Board-certified in pain medicine, noted that when comparing appellant's current imaging study with a previous one, "we do not see any acute injury." She reassured appellant that nothing could make her recent rhizotomy procedure not work. Dr. Dubal added, however: "Now typically you can have postprocedure pain due to inflammatory response. Having an acute injury on top of that will definitely exacerbate the pain." She stated that she did not evaluate appellant's fall "as I cannot address that until the claim has been established."

In a decision dated January 24, 2013, OWCP denied appellant's claim. It found that she established that the December 4, 2012 incident alleged, but the medical evidence did not establish that the accepted work incident caused an injury or medical condition.

Appellant requested a hearing before an OWCP hearing representative and submitted treatment notes. Dr. Dubal believed that appellant's left-sided pain was coming from the sacroiliac joint, since she was not tender over the lumbar facet area. A sacroiliac joint injection on January 16, 2013 did not give good results. "She is tender over localized gluteal muscle. I do think that she has local trauma to gluteal musculature along with sciatic nerve since she is tender over the sciatic notch." Dr. Dubal added that, if appellant did not improve with a trigger-point injection, she would order an imaging study of the gluteal musculature: "This is the area she landed when she fell."

On April 8, 2013 Dr. Dubal completed a form entitled "Rationalized Medical Opinion Form to establish Causal Relationship." She noted the December 4, 2012 incident and described appellant's subject complaint and findings on physical examination. Dr. Dubal noted that an emergency room imaging study showed no new findings. She diagnosed trauma to sciatic nerve and then signed the following preprinted statement:

> "In my medical opinion, the facts of injury are the direct and proximate cause of the diagnosis that I cited above. This is based on reasonable medical probability. There may be other causes for this medical problem, but one of the causes is clearly the activities of work described [by] the patient and described above."

On July 22, 2013 an OWCP hearing representative affirmed the denial of appellant's claim. She found that Dr. Dubal's opinion on causal relationship was of diminished probative value as the physician did not explain how the December 4, 2012 incident caused or contributed to a sciatic nerve trauma. She did not discuss the significance of the underlying degenerative

lumbar condition to appellant's symptoms. Dr. Dubal signed her name to a prepared statement without providing medical rationale.

Appellant requested reconsideration and submitted the September 7, 2013 report of Dr. William H. Brooks, a Board-certified neurosurgeon, who first saw her on April 2, 2012 with a history of having fallen at work and having pain since that time. It was unclear to Dr. Brooks whether she had previous symptoms, "but certainly, the fall that you sustained was significant and prompted further intervention by Dr. Dubal and further testing." He described the test results and surgical intervention, and noted that she did not show any improvement. Repeat studies showed no nerve root compression. Dr. Brooks offered this opinion: "From the history that you have given me it would seem that your symptoms are related to your accident, as an exacerbation of underlying, preexistent, albeit dormant condition of degenerative change."

In a decision dated October 9, 2013, OWCP reviewed the merits of appellant's claim and denied modification of its prior decision. It found that she failed to provide sufficient medical evidence with rationale to support the element of causal relationship. OWCP noted that Dr. Brooks did not mention the December 4, 2012 incident and did not understand appellant's past medical history.

LEGAL PRECEDENT

FECA provides compensation for the disability of an employee resulting from personal injury sustained while in the performance of duty.[2] An employee seeking benefits under FECA has the burden of proof to establish the essential elements of his or her claim. When an employee claims that he or she sustained an injury in the performance of duty, he or she must submit sufficient evidence to establish that he or she experienced a specific event, incident or exposure occurring at the time, place and in the manner alleged. He or she must also establish that such event, incident or exposure caused an injury.[3]

Causal relationship is a medical issue,[4] and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence. The opinion of the physician must be based on a complete factual and medical background of the claimant,[5] must be one of reasonable medical certainty,[6] and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the established incident or factor of employment.[7]

[2] 5 U.S.C. § 8102(a).

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

[4] *Mary J. Briggs*, 37 ECAB 578 (1986).

[5] *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

[6] *See Morris Scanlon*, 11 ECAB 384, 385 (1960).

[7] *See William E. Enright*, 31 ECAB 426, 430 (1980).

ANALYSIS

OWCP accepted that the December 4, 2012 incident occurred as alleged. Appellant has established that she experienced a specific event, incident or exposure occurring at the time, place and in the manner alleged. The question that remains is whether this incident caused an injury.

Causal relationship is a medical issue, and the medical evidence in this case lends some support to appellant's injury claim. One day after appellant's work incident, Dr. Dubal, her pain specialist, generally supported the idea that an acute injury on top of a postprocedure inflammatory response would exacerbate one's pain. She made clear that she was not addressing appellant's fall. Further, she did not identify the nature of this acute injury. OWCP properly denied appellant's injury claim on the basis of this evidence.

Dr. Dubal reported her belief that appellant had a local trauma to her gluteal musculature, along with sciatic nerve, since she was tender over the sciatic notch. She did not identify the nature of this trauma, and she raised doubt about her understanding of what happened on December 4, 2012 when she stated: "This is the area she landed when she fell." Appellant's description of what happened gave no indication that she fell and landed on her gluteal musculature. To the contrary, appellant stated that she landed on her knee and fell over on her side. Medical conclusions based on inaccurate or incomplete histories are of diminished probative value.[8]

Dr. Dubal completed a form entitled "Rationalized Medical Opinion Form to establish Causal Relationship." This form is not sufficient to establish the claim. The boilerplate language at the bottom of the form is nonspecific. It is not specific to appellant, the December 4, 2012 incident or diagnosis in this case. It does not provide the medical rationale necessary to establish that appellant's particular medical condition is causally related to her accepted employment incident.[9]

Dr. Brooks, the consulting neurosurgeon, generally supported appellant's injury claim by opining, from the history appellant had given him, that her symptoms were related to her accident, as an exacerbation of a preexisting but dormant degenerative condition. He did not describe appellant's history in any detail. Dr. Brooks did not describe the incident on December 4, 2012. He appeared to be unfamiliar with appellant's prior history of chronic pain, which was anything but dormant. The record reflects that appellant underwent a left lumbar facet nerve rhizotomy procedure one week before the accepted work incident. Again, medical conclusions based on inaccurate or incomplete histories are of little probative value.

The Board finds that appellant has not met her burden to establish that the December 4, 2012 work incident caused a specifically diagnosed medical injury. The medical opinion

[8] *James A. Wyrick*, 31 ECAB 1805 (1980) (physician's report was entitled to little probative value because the history was both inaccurate and incomplete). *See generally Melvina Jackson*, 38 ECAB 443, 450 (1987) (addressing factors that bear on the probative value of medical opinions).

[9] *A.B.*, Docket No. 13-1965 (issued February 11, 2014); *see D.N.*, Docket No. 14-216 (issued April 22, 2014).

evidence, while generally supportive of her claim, does not provide a full or accurate medical history or rationale necessary to establish the critical element of causal relationship. Appellant's physician did not demonstrate an accurate understanding of what happened on December 4, 2012 or of her prior history of chronic pain.[10] In the absence of such convincing medical opinion evidence, the Board will affirm OWCP's October 9, 2013 decision denying appellant's injury claim.

CONCLUSION

The Board finds that appellant has not met her burden to establish that she sustained a low back injury in the performance of duty on December 4, 2012.

ORDER

IT IS HEREBY ORDERED THAT the October 9, 2013 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: June 20, 2014
Washington, DC

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

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

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

[10] *See Philip J. Deroo*, 39 ECAB 1294 (1988) (although the medical opinion of a physician supporting causal relationship does not have to reduce the cause or etiology of a disease or condition to an absolute medical certainty, neither can such opinion be speculative or equivocal).