

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

C.A., Appellant)

and)

**DEPARTMENT OF THE ARMY, U.S. ARMY
FORCES COMMAND, Lewis-McChord, WA,
Employer**)

**Docket No. 11-1920
Issued: March 26, 2012**

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

Case Submitted on the Record

DECISION AND ORDER

Before:

RICHARD J. DASCHBACH, Chief Judge
ALEC J. KOROMILAS, Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On August 17, 2011 appellant filed a timely appeal from a July 25, 2011 decision of the Office of Workers' Compensation Programs (OWCP) which denied her traumatic injury claim. 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 sustained an injury in the performance of duty on February 1, 2008.

FACTUAL HISTORY

On January 20, 2010 appellant, then a 54-year-old protocol specialist, filed a traumatic injury claim alleging that on February 1, 2008 she bruised her right thigh and strained her hip

¹ 5 U.S.C. § 8101 *et seq.*

after she slipped on ice in the parking lot. The employing establishment controverted the claim finding insufficient evidence to support fact of injury.

In a letter dated December 9, 2010, OWCP advised appellant that no evidence was submitted to support her claim. It requested that she submit additional factual evidence to demonstrate that the event occurred as alleged and medical evidence to establish that she sustained an injury as a result of the alleged incident.

In a November 12, 2010 Form CA-20, Dr. Deepshikha Bhasin, a Board-certified internist, noted that appellant slipped on ice at work on February 1, 2008 and experienced pain in her right hip. She diagnosed right hip pain now resolved and listed a diagnostic code of 719.46. Dr. Bhasin stated that the fall and pain did not affect appellant's work and indicated that her first date of examination was on February 25, 2008.

In a decision dated January 14, 2011, OWCP denied appellant's claim finding insufficient evidence to establish fact of injury. It determined that the evidence submitted failed to establish that the February 1, 2011 incident occurred as alleged and that appellant suffered a diagnosed condition as a result of the alleged incident.

On February 10, 2011 appellant submitted a request for an oral hearing. In an attached statement, she explained that as she walked to work from her vehicle in the building parking lot she slipped on ice and felt both her feet come out from under her. Appellant stated that the parking lot was iced over and that salt or sand had not been applied. She also reported that she had returned to her physician who added a diagnostic code of 709-09 because the initial diagnosis for right hip pain was not accepted. Appellant noted that a physician's opinion as to how the reported work incident caused or aggravated a medical condition was not available.

Appellant also provided a February 2, 2011 witness statement from G. Kent Troy, chief of protocol, who noted that on February 1, 2008 he saw her slip and fall on the icy parking lot.

Appellant resubmitted the November 12, 2010 Form CA-20, which included a new diagnostic code of 715.09.²

During the June 2, 2011 telephone hearing, appellant explained that on February 1, 2008 she slipped on ice and fell in the parking lot as she walked from her vehicle to her work building shortly before 8:00 a.m. She believed that the giant bruise on her hip was related to the February 1, 2008 incident or that it at least aggravated her previous hip arthritis. Appellant noted that the bruise was evident to the eye and sore to the touch. She explained that the Form CA-20 was sent back to Dr. Bhasin to change because the diagnostic code for pain was not accepted as a diagnosis. OWCP's hearing representative stated that if a condition is going to be accepted the physician had to write down more than just pain and also provide an opinion, supported by medical rationale, explaining how the diagnosis was specifically related to the incident that occurred. Appellant was advised to provide a statement from her physician clearly explaining

² In the telephone hearing transcript, OWCP's hearing representative noted that the ICD-9 code 715.09 was the billable diagnosis code for general osteoarthritis.

what the injury was and whether her diagnosed condition was related to the February 1, 2008 incident.

In a February 29, 2008 medical chart note that was partially blacked out, Dr. Bhasin stated that she examined appellant on February 25, 2008 for complaints of body aches. Appellant related that she fell on ice about three weeks ago and experienced right hip pain. She also complained of a bump on the right knee and some right knee discomfort. The examination did not reveal any rashes or joint swellings and was negative for any pain in any specific joints. Dr. Bhasin noted tenderness in the region of the right hip with movement of the right lower extremity. She stated that appellant's fall on the ice resulted in some right hip and knee pain and advised that appellant undergo an x-ray examination. Appellant also resubmitted her February 10, 2011 statement and the February 2, 2011 witness statement.

By decision dated July 25, 2011, OWCP's hearing representative affirmed the January 14, 2011 decision finding that the medical evidence was insufficient to establish that appellant sustained any diagnosed condition as a result of the February 1, 2008 employment incident.

LEGAL PRECEDENT

An employee seeking benefits under FECA³ has the burden of proof to establish the essential elements of her claim by the weight of the reliable, probative and substantial evidence,⁴ including that she is an "employee" within the meaning of FECA⁵ and that she filed her claim within the applicable time limitation.⁶ The employee must also establish that she sustained an injury in the performance of duty and that any specific condition or disability for work for which she claims compensation is causally related to that employment injury.⁷

Causal relationship is a medical issue and the medical evidence required to establish a causal relationship is rationalized medical opinion evidence.⁸ Whether an employee sustained an injury in the performance of duty requires the submission of rationalized medical opinion evidence providing a diagnosis or opinion as to causal relationship.⁹ Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on whether there is a causal relationship between the employee's diagnosed condition and the

³ 5 U.S.C. §§ 8101-8193.

⁴ *J.P.*, 59 ECAB 178 (2007); *Joseph M. Whelan*, 20 ECAB 55, 58 (1968).

⁵ *See M.H.*, 59 ECAB 461 (2008); *Emiliana de Guzman (Mother of Elpedio Mercado)*, 4 ECAB 357, 359 (1951).

⁶ *R.C.*, 59 ECAB 42 (2008); *Kathryn A. O'Donnell*, 7 ECAB 227, 231 (1954).

⁷ *M.M.*, Docket No. 08-1510 (issued November 25, 2010); *G.T.*, 59 ECAB 447 (2008).

⁸ *D.E.*, 58 ECAB 448 (2007); *Mary J. Summers*, 55 ECAB 730 (2004); *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

⁹ *See J.Z.*, 58 ECAB 529 (2007); *Paul E. Thams*, 56 ECAB 503 (2005).

specified employment factors or incident.¹⁰ The opinion of the physician must be based on a complete factual and medical background of the employee, must be one of reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the employee.¹¹

ANALYSIS

Appellant alleged that on February 1, 2008 she sustained a bruise on her hip when she slipped on ice and fell down in the parking lot on her way to work. In a January 14, 2011 decision, OWCP denied her claim finding insufficient factual evidence to demonstrate that the incident occurred as alleged and insufficient medical evidence establishing that the work event caused any condition. In a July 25, 2011 decision, OWCP's hearing representative accepted that the February 1, 2008 incident occurred as alleged but found the medical evidence insufficient to establish that she sustained any condition as a result of the accepted employment incident. The Board finds that appellant failed to provide sufficient evidence demonstrating that she sustained a bruised hip as a result of the February 1, 2008 employment incident.

Appellant submitted medical evidence from Dr. Bhasin. In a November 12, 2010 Form CA-20, Dr. Bhasin noted that appellant fell on ice on the job on February 1, 2008 and was initially examined on February 25, 2008 for right hip pain. She diagnosed right hip pain that has now resolved and listed a diagnostic code of 719.46. Dr. Bhasin later included a diagnostic code of 715.09. In a February 29, 2008 medical chart note, she stated that appellant's fall on the ice resulted in some right hip and knee pain. The Board has found, however, that pain is not a compensable medical diagnosis.¹² Dr. Bhasin also failed to provide any opinion on the cause of appellant's hip pain or explain how her hip pain resulted from the February 1, 2008 work event. The Board has found that medical evidence that does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship.¹³ Thus, Dr. Bhasin's reports are insufficient to establish appellant's claim.

On appeal, appellant contended that she sustained a bruise on her hip and pain as a result of falling down at work. She explained that an x-ray examination could not display a bruise and that a bruise and pain normally occurred when one falls down. Appellant, however, must submit medical evidence establishing that she suffered from some physical or mental condition, more than just pain.¹⁴ Causal relationship is a medical issue and the medical evidence required to establish a causal relationship is rationalized medical opinion evidence.¹⁵ As appellant has not

¹⁰ *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 345 (1989).

¹¹ *D.S.*, Docket No. 09-860 (issued November 2, 2009); *B.B.*, 59 ECAB 234 (2007).

¹² *Robert Broome*, 55 ECAB 339, 342 (2004).

¹³ *R.E.*, Docket No. 10-679 (issued November 16, 2010); *K.W.*, 59 ECAB 271 (2007).

¹⁴ The term injury as defined by FECA refers to some physical or mental condition caused by either trauma or by continued or repeated exposure to, or contact with, certain factors, elements or conditions. 20 C.F.R. § 10.5(ee).

¹⁵ *Mary J. Summers*, *supra* note 8.

submitted such rationalized medical opinion in this case, she did not meet her burden of proof to establish her claim.

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.

CONCLUSION

The Board finds that appellant did not meet her burden of proof to establish that she sustained an injury in the performance of duty on February 1, 2008.

ORDER

IT IS HEREBY ORDERED THAT the July 25, 2011 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: March 26, 2012
Washington, DC

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

Alec J. Koromilas, Judge
Employees' Compensation Appeals Board

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