

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

E.P., Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Belmont, MI, Employer**

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**Docket No. 15-1746
Issued: December 3, 2015**

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

Case Submitted on the Record

DECISION AND ORDER

Before:

CHRISTOPHER J. GODFREY, Chief Judge
ALEC J. KOROMILAS, Alternate Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On August 18, 2015 appellant filed a timely appeal of a June 25, 2015 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 in this case.²

ISSUE

The issue is whether appellant has met her burden of proof to establish that she sustained a traumatic injury in the performance of duty, on April 13, 2015, as alleged.

¹ 5 U.S.C. § 8101 *et seq.*

² With her request for an appeal, appellant submitted additional evidence. However, the Board may not consider new evidence on appeal. See 20 C.F.R. § 501.2(c)(1).

FACTUAL HISTORY

On April 15, 2015 appellant then a 60-year-old rural carrier, filed a traumatic injury claim (Form CA-1) alleging that on April 13, 2015, when delivering a package in the rain she tripped on steps that were curved and uneven and fell injuring the right side of her neck. The employing establishment did not indicate if she stopped work.

By letter dated May 22, 2015, OWCP advised appellant of the type of evidence needed to establish her claim, particularly requesting that appellant submit a physician's reasoned opinion addressing the relationship of her claimed condition and specific employment factors.

On June 1, 2015 appellant responded to an OWCP questionnaire and noted that while delivering a package in the rain she tripped on a top step and fell onto a box injuring her neck and chest. She reported finishing her mail route and subsequently her throat began to swell and she sought treatment at the emergency room. Appellant indicated that she did not sustain any other injuries subsequent to this fall. She reported going to the hospital with a Form CA-17, but she was informed that the hospital did not do "paperwork." Appellant attempted to see her physician but could not get an appointment for three weeks. She indicated that her injury resolved after one week. Appellant noted undergoing testing and was diagnosed with a soft tissue neck injury.

Appellant submitted a restriction slip from Dr. Thomas M. Matelic, a Board-certified orthopedic surgeon, dated March 30, 2015 who diagnosed left rotator cuff tear and left tendinitis of the long biceps head. She noted this restriction slip was not applicable to her claim as it was for a prior condition.

Appellant submitted a prescription note from Dr. Randall N. Clark, a Board-certified family practitioner, dated April 14, 2015, who noted that she was disabled from April 14 to 15, 2015, but could return to work on April 16, 2015. She submitted an attending physician's report (Form CA-16) dated June 5, 2015 from Dr. Clark who noted findings from a computerized tomography (CT) scan which revealed no fracture or airway obstruction. Dr. Clark noted with a checkmark "yes" that appellant's condition was caused or aggravated by an employment activity. He indicated that she tripped while delivering a package and the package impacted her neck and chest and she experienced difficulty breathing. Dr. Clark treated appellant with oral steroids and a breathing treatment. He noted that she was totally disabled from April 13 to 19, 2015 and could return to regular duty on April 20, 2015. Appellant completed a duty status report (Form CA-17) dated June 5, 2015 noting it had been two months since the injury, which was healed. Dr. Clark diagnosed soft tissue injury of the neck and noted that she could return to work full time with restrictions.

In a decision dated June 25, 2015, OWCP denied appellant's claim for a traumatic injury finding that she failed to submit medical evidence containing a medical diagnosis in connection with the injury or events.

LEGAL PRECEDENT

An employee seeking benefits under FECA has the burden of establishing the essential elements of his or her claim including the fact that the individual is an employee of the United States within the meaning of FECA, that the claim was filed within the applicable time limitation of FECA, that an injury was sustained in the performance of duty as alleged and that any disability and/or specific condition for which compensation is claimed is causally related to the employment injury. These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.³

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it first must be determined whether fact of injury has been established. There are two components involved in establishing fact of injury. First, the employee must submit sufficient evidence to establish that he actually experienced the employment incident at the time, place, and in the manner alleged. Second, the employee must submit medical evidence to establish that the employment incident caused a personal injury.⁴

Rationalized medical opinion evidence is generally required to establish causal relationship. The opinion of the physician must be based on a complete factual and medical background, 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 claimant.⁵

ANALYSIS

It is not disputed that on April 13, 2015, when delivering a package in the rain, appellant tripped and fell on steps that were curved and uneven. However, appellant has submitted insufficient medical evidence to establish that the trip and fall caused a neck injury as alleged.

Appellant submitted an attending physician's report dated June 5, 2015 from Dr. Clark who noted findings from a CT scan revealed no fracture or airway obstruction. Dr. Clark noted with a checkmark "yes" that her condition was caused or aggravated by an employment activity. He indicated that appellant tripped while delivering a package and the package impacted her neck and chest and she experienced difficulty breathing. Dr. Clark noted that she was totally disabled from April 13 to 19, 2015 and could return to regular duty on April 20, 2015. The Board has held that an opinion on causal relationship which consists only of a physician checking "yes" to a medical form report question on whether the claimant's condition was

³ *Gary J. Watling*, 52 ECAB 357 (2001).

⁴ *T.H.*, 59 ECAB 388 (2008).

⁵ *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 345 (1989).

related to the history given is of little probative value. Without any explanation or rationale for the conclusion reached, such report is insufficient to establish causal relationship.⁶

Appellant submitted a duty status report from Dr. Clark, dated June 5, 2015, who noted her injury had healed. Dr. Clark diagnosed soft tissue injury of the neck and returned her to work full time with restrictions. In an April 14, 2015 prescription note, he noted that appellant was disabled until April 16, 2015. These reports are insufficient to establish the claim as Dr. Clark did not provide a history of the work incident in which appellant tripped and fell and did not explain how this incident caused or aggravated any diagnosed medical condition. Therefore these reports are insufficient to meet appellant's burden of proof.

Appellant submitted a restriction slip from Dr. Matelic dated March 30, 2015 who diagnosed left rotator cuff tear and left tendinitis of the long biceps head. This report predates her injury and she confirms its inapplicability. Therefore, this evidence is of no value in establishing the claimed injury of April 13, 2015 since it predates the time of the claimed condition and is irrelevant to the claim.

An award of compensation may not be based on surmise, conjecture, or speculation. Neither the fact that appellant's condition became apparent during a period of employment nor the belief that her condition was caused, precipitated, or aggravated by her employment is sufficient to establish causal relationship. Causal relationships must be established by rationalized medical opinion evidence.⁷ Appellant failed to submit such evidence, and OWCP therefore properly denied her claim for compensation.

On appeal appellant asserted that OWCP had improperly denied her claim as she believed she submitted sufficient evidence to establish that on April 13, 2015 she sustained a neck injury when she tripped and fell on steps. As noted above, the medical evidence does not establish that her diagnosed conditions were causally related to her employment. Appellant has not submitted a physician's report, based on an accurate history, which describes how work activities on April 13, 2015 caused or aggravated a neck condition.

The Board notes that the employing establishment issued a Form CA-16 authorization for medical treatment on April 15, 2015. Where an employing establishment properly executes a Form CA-16, which authorizes medical treatment as a result of an employee's claim for an employment-related injury, the Form CA-16 creates a contractual obligation, which does not involve the employee directly, to pay for the cost of the examination or treatment regardless of

⁶ The Board has held that when a physician's opinion on causal relationship consists only of checking "yes" to a form question, without explanation or rationale, that opinion is of diminished probative value and is insufficient to establish a claim. *Sedi L. Graham*, 57 ECAB 494 (2006); *D.D.*, 57 ECAB 734 (2006).

⁷ See *Dennis M. Mascarenas*, 49 ECAB 215 (1997).

the action taken on the claim.⁸ The period for which treatment is authorized by a Form CA-16 is limited to 60 days from the date of issuance, unless terminated earlier by OWCP.⁹

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 a traumatic injury in the performance of duty on April 13, 2015, as alleged.

⁸ *A.B.*, Docket No. 15-1002 (issued August 14, 2015); *Tracey P. Spillane*, 54 ECAB 608 (2003).

⁹ *A.B.*, *id.*; *see also* 20 C.F.R. § 10.300(c).

ORDER

IT IS HEREBY ORDERED THAT the June 25, 2015 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: December 3, 2015
Washington, DC

Christopher J. Godfrey, Chief Judge
Employees' Compensation Appeals Board

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

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board