United States Department of Labor
Employees' Compensation Appeals Board

S.D., Appellant	)	
and	)	**Docket No. 08-503**
	)	**Issued: June 16, 2008**
DEPARTMENT OF AGRICULTURE, FOREST SERVICE, Yreka, CA, Employer	)	

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

Case Submitted on the Record

DECISION AND ORDER

Before:
DAVID S. GERSON, Judge
COLLEEN DUFFY KIKO, Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On November 28, 2007 appellant filed a timely appeal of an August 13, 2007 decision of the Office of Workers' Compensation Programs which found that she did not sustain an injury in the performance of duty. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3(d)(2), the Board has jurisdiction over the merits of this case.

ISSUE

The issue is whether appellant met her burden of proof in establishing that she sustained an injury in the performance of duty on July 15, 2005.

FACTUAL HISTORY

On July 18, 2005 appellant, then a 23-year-old forestry service technician, filed a traumatic injury claim alleging that on July 15, 2005 she hit uneven ground and sustained an injury to her left knee while in the performance of duty. She did not initially stop work.

By letter dated July 9, 2007, the Office advised appellant that additional factual and medical evidence was needed. It provided her 30 days to submit the requested information.

The Office then received a February 19, 2007 report from Dr. Ronald D. Wobig, a Board-certified orthopedic surgeon, who indicated that appellant had a previous history of an anterior cruciate ligament (ACL) tear of her left knee in 1999 which was surgically repaired. He advised that she had recovered until she sustained an injury two years later in a basketball game and tore her ACL reconstruction and underwent surgery at that time. Dr. Wobig noted that appellant had recently reinjured herself despite conservative management and there was some concern that she might have a meniscal tear. On March 22, 2007 he performed a left knee arthroscopic medial meniscectomy with intracondylar notch osteophyte excision.

In an August 3, 2007 statement, appellant described her activities on the date of injury. She alleged that she was cutting juniper trees on a mountain and, while walking down a slope on uneven terrain, she felt her knee slip and it later swelled. Additionally, appellant noted that she had prior knee injuries, which included two previous tears of her ACL and surgery. She stated that she first sought medical treatment for her condition in October 2005. Additionally, the Office received an athletic training medical history form from appellant dated October 20, 2005.

By decision dated August 13, 2007, the Office denied appellant's claim. The Office found that the evidence was sufficient to show that the claimed event occurred on July 15, 2005. However, the Office found that there was insufficient medical evidence supporting that the accepted employment incident caused a diagnosed condition.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act[1] 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 the Act, that the claim was timely filed within the applicable time limitation period of the Act[2] and that an injury was sustained in the performance of duty.[3] These are the essential elements of each compensation claim, regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.[4]

In order to determine whether an employee actually sustained an injury in the performance of duty, the Office begins with an analysis of whether fact of injury has been established. Generally, fact of injury consists of two components which must be considered in conjunction with one another. The first component to be established is that the employee actually experienced the employment incident which is alleged to have occurred. The second component is whether the employment incident caused a personal injury and generally this can be established only by medical evidence.[5]

[1] 5 U.S.C. §§ 8101-8193.

[2] *Joe D. Cameron*, 41 ECAB 153 (1989).

[3] *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

[4] *Delores C. Ellyett*, 41 ECAB 992 (1990).

[5] *See John J. Carlone*, 41 ECAB 354, 357 (1989).

The employee must also submit sufficient evidence, generally only in the form of medical evidence, to establish that the employment incident caused a personal injury.[6] The medical evidence required to establish causal relationship is usually rationalized medical evidence. Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the claimant, 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.[7]

ANALYSIS

Appellant alleged that she was walking on uneven surfaces and sustained an injury to her left knee in the performance of duty on July 15, 2005. The Office accepted that the claimed event, walking on uneven surfaces, occurred in the performance of duty at work. The Office found and the Board agrees that the claimed incident, walking on uneven surfaces at work, occurred in the performance of duty at work.

However, the medical evidence is insufficient to establish that the employment incident caused an injury. The medical reports of record do not establish that walking on uneven surfaces at work caused a personal injury on July 15, 2005. The medical evidence contains no reason or explanation of how the specific employment incident on July 15, 2005 caused or aggravated an injury.[8]

Appellant submitted a February 19, 2007 report from Dr. Wobig, who noted her previous history of ACL tears from 1999 and then two years later in a basketball game. While Dr. Wobig noted that appellant had recently reinjured herself and had a possible meniscal tear, he did not mention the July 15, 2005 employment incident and address how this incident caused or aggravated a particular medical condition. The Office also received a March 22, 2007 operative report from Dr. Wobig, who performed a left knee arthroscopic medial meniscectomy with intracondylar notch osteophyte excision. However, Dr. Wobig did not offer any opinion on causal relationship between the diagnosed condition and the July 15, 2005 employment incident.[9]

Appellant did not submit any other medical evidence that specifically addressed how the July 15, 2005 incident caused or aggravated a diagnosed medical condition. Consequently, she has submitted insufficient medical evidence to establish that the July 15, 2005 incident caused an injury.

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[6] *Id*. For a definition of the term "traumatic injury," see 20 C.F.R. § 10.5(ee).

[7] *Id.*

[8] *See George Randolph Taylor*, 6 ECAB 986, 988 (1954) (where the Board found that a medical opinion not fortified by medical rationale is of little probative value).

[9] *A.D.*, 58 ECAB ___ (Docket No. 06-1183, issued November 14, 2006) (medical evidence which does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship).

CONCLUSION

The Board finds that appellant has not met her burden of proof in establishing that she sustained an injury in the performance of duty.

ORDER

IT IS HEREBY ORDERED THAT the August 13, 2007 decision of the Office of Workers' Compensation Programs is affirmed.

Issued:
Washington, DC

David S. Gerson, Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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