

The Office requested additional factual and medical evidence by letter dated May 14, 2008. It allowed 30 days for a response. In a report dated April 22, 2008, Dr. Christopher M. Meckel, a Board-certified orthopedic surgeon, stated that because of appellant's weak knee she missed a step and fell down on her arm. He diagnosed fracture of the radial head, fracture of the ulnar shaft, joint pain in the lower leg and shin splints. In a form report dated April 25, 2008, Dr. Meckel stated that appellant had a previous knee injury, that her knee collapsed and she injured her arm sustaining a left proximal ulna fracture. He indicated with a checkmark "yes" that her condition was due to her previous workers' compensation knee injury. Dr. Meckel noted that appellant underwent surgery for her left arm condition. Appellant requested compensation from May 25 to July 15, 2008.

On April 12, 2008 Dr. Meckel stated that appellant fell onto her left upper extremity and diagnosed a displaced comminuted proximal ulnar fracture and a highly comminuted radial head fracture. He performed an open reduction and internal fixation of the left proximal ulna fracture and left radial head replacement on April 12, 2009 and completed a discharge note on April 27, 2008. On June 5, 2008 Dr. Meckel found that appellant should continue modified work.

By decision dated July 1, 2008, the Office denied appellant's claim finding that she had not submitted the necessary factual evidence to meet her burden of proof. It stated that she had an accepted claim for right knee contusion and that she was authorized to receive physical therapy for this condition; however, as she was not at work when she sustained her left elbow injury it did not accept that her injury was causally related to factors of federal employment.

Appellant requested reconsideration on July 29, 2008 and explained that she sustained an accepted right knee injury on March 12, 2008 and received physical therapy for this condition. She stated that her physician, Dr. John Bennetts, released her to return to work duties on April 3, 2008 with a knee brace and prescription for physical therapy. Appellant stated on April 9, 2008 that she was returning home after physical therapy for her knee and felt some pain and weakness in her knee, stopped to rest at a friend's house and then stepped up on a step with her right foot when her knee collapsed and she fell and hit her left arm on the cement driveway. She submitted a witness statement from her friend, Yousra El Machtoub, describing the events of April 9, 2008. On July 7, 2008 Dr. Meckel described appellant's continued elbow pain. Appellant also resubmitted a copy of the April 12, 2008 operative report, the April 25, 2008 form report and the June 5, 2008 treatment note. Dr. Gary J. Chang, a physician Board-certified in pain management, examined appellant on September 23, 2008 and diagnosed complex regional pain syndrome.

By decision dated October 31, 2008, the Office reviewed appellant's claim on the merits and denied modification of its July 1, 2008 decision.

LEGAL PRECEDENT

It is an accepted principle of workers' compensation law that, when the primary injury is shown to have arisen out of and in the course of employment, every natural consequence that flows from the injury is deemed to arise out of the employment, unless it is the result of an

independent intervening cause, which is attributable to the employee's own intentional conduct.¹ In discussing the range of compensable consequences, once the primary injury is causally connected with the employment, then a subsequent injury, whether an aggravation of the original injury or a new and distinct injury, is compensable if it is the direct and natural result of a compensable primary injury.²

A claimant bears the burden of proof to establish her claim for a consequential injury. As part of this burden, a claimant must present rationalized medical opinion evidence, based on a complete factual and medical background, showing causal relationship.³ Causal relationship is a medical question that can generally be resolved only by rationalized medical opinion evidence.⁴ Rationalized medical evidence, is evidence which relates a work incident, work injury or factors of employment to a claimant's condition, with stated reasons of a physician.⁵ The opinion of the physician must be one of reasonable medical certainty and must be supported by medical rationale explaining the nature of the relationship of the diagnosed condition and the specific employment injury.⁶

ANALYSIS

The Board finds that this case is not in posture for decision.

Appellant filed a claim for a traumatic injury attributing her left arm fractures to the collapse of her right knee following physical therapy. The Office noted that she has an accepted right knee injury and that physical therapy was authorized to treat this condition. However, it failed to develop appellant's left upper extremity claim as a possible consequential injury of the accepted right knee injury. Appellant alleged that her left arm was injured when her right knee collapsed. She has submitted medical documentation with a consistent history of injury and opinion that this was the mechanism of injury. The Office has not adjudicated this aspect of her claim, finding only as the injury was not on the employing establishment premises it was not sustained in the performance of duty. This finding is not in accordance with Board precedent regarding consideration of consequential injuries, as noted above. On remand, the Office should combine appellant's claims for right knee and left arm injuries, prepare a statement of accepted facts and refer appellant for examination by an appropriate physician to determine whether she sustained her left arm injuries as a consequence of her accepted right knee condition. After this and such other development as the Office deems necessary, the Office should issue an appropriate decision.

¹ *Albert F. Ranieri*, 55 ECAB 598, 602 (2004); A. Larson, *The Law of Workers' Compensation* § 10.01 (2000).

² *Charles W. Downey*, 54 ECAB 421-23 (2003).

³ *Id.*

⁴ *Steven S. Saleh*, 55 ECAB 169, 172 (2003).

⁵ *Supra* note 2.

⁶ *Id.*

CONCLUSION

The Board finds that this case requires further development of the factual and medical evidence and evaluation by the Office for a possible consequential injury as is consistent with the information submitted by appellant on her claim form and to her physician.

ORDER

IT IS HEREBY ORDERED THAT the October 31 and July 1, 2008 decisions are set aside and remanded for further development consistent with this decision of the Board.

Issued: October 20, 2009
Washington, DC

David S. Gerson, Judge
Employees' Compensation Appeals Board

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

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