

FACTUAL HISTORY

On July 14, 2010 appellant, then a 60-year-old lead medical technician, filed a traumatic injury claim Form CA-1 alleging a left wrist, left knee and right hip injury when she fell on June 22, 2010. She turned her foot due to rocks on the ground while in the performance of duty.

By letter dated July 20, 2010, OWCP requested additional factual and medical evidence. It allotted appellant 30 days to submit the evidence and respond to its inquiries.

In a July 13, 2010 report, Dr. Elaine Hart-Brothers, a Board-certified internist, advised that appellant was out of work after a fall on July 6, 2010 for wrist, hip and back pain. She released appellant to work on July 14, 2010 with restrictions.

On August 6, 2010 Dr. Hart-Brothers indicated that appellant was unable to work indefinitely and underwent an osteoporosis bone scan on July 22, 2010.

By decision dated August 27, 2010, OWCP denied appellant's claim finding that the factual and medical evidence submitted was insufficient to establish fact of injury. It found that evidence submitted was insufficient to establish that the described employment incident occurred as alleged and that there was no medical evidence that provided a diagnosis which could be connected to the claimed incident.

Appellant submitted an August 19, 2010 report by Dr. Hart-Brothers, who diagnosed slight elevated blood pressure and pain in the left arm, shoulder and neck. Dr. Hart-Brothers indicated that an injury occurred on June 22, 2010. In a follow-up report of August 23, 2010, she diagnosed arm and neck pain. Dr. Hart-Brothers checked a box "yes" indicating that the condition was caused or aggravated by employment activity and stated that it would not have any permanent effects. On August 30, 2010 she reported diagnoses of right arm spasms, chronic right hip pain, neck and shoulder pain, left knee pain, left arm, wrist and fingers pain. Dr. Hart-Brothers checked a box "yes" indicating that the conditions were caused or aggravated by employment activity and opined that appellant was permanently disabled for work.

On September 18, 2010 appellant requested a review of the written record by OWCP's hearing representative.

By decision dated December 15, 2010, OWCP's hearing representative affirmed the August 27, 2010 decision finding that the evidence submitted failed to establish fact of injury.

On February 1, 2011 appellant requested reconsideration. She submitted a July 13, 2010 report by Dr. Hart-Brothers diagnosing pain in left wrist, hands, right hip and left knee due to a fall on June 22, 2010. Dr. Hart-Brothers indicated that appellant did not have true arthritis, no joint abnormalities and possible gastroesophageal reflux disease. On August 30 and September 2, 2010 she reiterated her opinion that appellant's condition was due to an accident related to her employment and that she was permanently disabled for work. In an October 1, 2010 report, Dr. Hart-Brothers restricted appellant from lifting over 10 pounds, climbing, walking or standing for long periods and ordered her to rest at intervals.

Appellant also submitted an August 6, 2010 report from Deborah Dawn Smith, a nurse practitioner, and resubmitted reports by Dr. Hart-Brothers dated August 19 and 23, 2010.

On March 2, 2011 the employing establishment submitted a response to appellant's request for reconsideration. Subsequently, appellant submitted a March 25, 2011 narrative statement, noting that while in the performance of duty on June 22, 2010, she fell while stepping on rocks and an employing establishment employee assisted her in getting up. A statement by Larry R. Johnson, a coworker, who witnessed her trip and fall on June 22, 2010, noted he assisted her in getting up.

By decision dated April 13, 2011, OWCP affirmed, as modified, the August 27, 2010 decision finding that the incident occurred, as alleged, appellant fell on June 22, 2010 after turning her foot on rocks while in the performance of duty. However, it found that the medical evidence submitted did not establish causal relationship.

LEGAL PRECEDENT

An employee seeking benefits under FECA³ 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 timely filed within the applicable time limitation period of FECA, that an injury⁴ was sustained in the performance of duty, as alleged, and that any disability or medical condition for which compensation is claimed is causally related to the employment injury.⁵

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it must first be determined whether a "fact of injury" has been established. A fact of injury determination is based on two elements. First, the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time, place and in the manner alleged. Second, the employee must submit sufficient evidence, generally only in the form of medical evidence, to establish that the employment incident caused a personal injury. An employee may establish that the employment incident occurred as alleged but fail to show that his or her condition relates to the employment incident.⁶

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence. 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 OWCP's regulations define a traumatic injury as a condition of the body caused by a specific event or incident, or series of events or incidents, within a single workday or shift. Such condition must be caused by external force, including stress or strain, which is identifiable as to time and place of occurrence and member or function of the body affected. 20 C.F.R. § 10.5(ee).

⁵ *T.H.*, 59 ECAB 388 (2008). See *Steven S. Saleh*, 55 ECAB 169 (2003); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁶ *Id.* See *Shirley A. Temple*, 48 ECAB 404 (1997); *John J. Carlone*, 41 ECAB 354 (1989).

compensable employment factors. 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.⁷

ANALYSIS

OWCP has accepted that the employment incident of June 22, 2010 occurred at the time, place and in the manner alleged. The issue is whether appellant's left wrist, left knee and right hip conditions resulted from the June 22, 2010 employment incident. The Board finds that she did not meet her burden of proof to establish a causal relationship between the conditions for which compensation is claimed and the June 22, 2010 employment incident.

Dr. Hart-Brothers submitted several reports in which she diagnosed slightly elevated blood pressure and pain in the left fingers, hand, wrist and arm, left knee, shoulder, neck and right hip due to a fall at work on June 22, 2010. She indicated that appellant did not have true arthritis, no joint abnormalities and possible gastroesophageal reflux disease. On August 30 and September 2, 2010 Dr. Hart-Brothers opined that appellant's condition was due to an accident related to her employment and that she was permanently disabled for work. The Board has held 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.⁸ The Board finds that Dr. Hart-Brothers failed to directly address the issue of causal relationship as she did not explain how the mechanism of the June 22, 2010 employment incident caused or aggravated appellant's conditions. Dr. Hart-Brothers did not provide medical rationale explaining how appellant's wrist, knee and hip conditions were caused or aggravated by turning her foot due to rocks on the ground on June 22, 2010. Lacking thorough medical rationale on the issue of causal relationship, the reports are of limited probative value and not sufficient to establish that appellant sustained an employment-related injury in the performance of duty on June 22, 2010. Similarly, Dr. Hart-Brothers' August 23 and 30, 2010 reports, wherein the box was marked "yes" for an employment-related injury, are of limited probative value. The Board has held that a check mark without more, by way of rationale, is insufficient to establish a claim for compensation.⁹ As such, the Board finds that appellant did not meet her burden of proof with these submissions.

The report from Ms. Smith, a nurse practitioner, is of no probative value as she is not a physician under FECA.¹⁰ As such, the Board finds that appellant did not meet her burden of proof with this submission.

⁷ *Id.* See *Gary J. Watling*, 52 ECAB 278 (2001).

⁸ See *C.B.*, Docket No. 09-2027 (issued May 12, 2010); *S.E.*, Docket No. 08-2214 (issued May 6, 2009).

⁹ See *Frederick H. Coward, Jr.*, 41 ECAB 843 (1990); *Lillian M. Jones*, 34 ECAB 379 (1982).

¹⁰ 5 U.S.C. § 8101(2). Section 8101(2) of FECA provides as follows: "(2) 'physician' includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors and osteopathic practitioners within the scope of their practice as defined by State law." See also *Paul Foster*, 56 ECAB 208, 212 n.12 (2004); *Joseph N. Fassi*, 42 ECAB 677 (1991); *Barbara J. Williams*, 40 ECAB 649 (1989).

As appellant has not submitted any rationalized medical evidence to support her allegation that she sustained an injury causally related to a June 22, 2010 employment incident, she has failed to meet her burden of proof.

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 has not submitted sufficient rationalized medical opinion evidence to establish that her left wrist, left knee and right hip conditions were sustained on June 22, 2010 in the performance of duty, as alleged. Therefore, appellant has failed to meet her burden of proof to establish a claim for compensation.

ORDER

IT IS HEREBY ORDERED THAT the April 13, 2011 and December 15, 2010 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: December 28, 2011
Washington, DC

Alec J. Koromilas, Judge
Employees' Compensation Appeals Board

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

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