United States Department of Labor
Employees' Compensation Appeals Board

M.P., Appellant	)	
and	)	
DEPARTMENT OF HOMELAND SECURITY, TRANSPORTATION SECURITY ADMINISTRATION, Charlotte, NC, Employer	)	**Docket No. 11-762** **Issued: October 5, 2011**

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 February 8, 2011 appellant filed a timely appeal from the January 25, 2011 merit decision of the Office of Workers' Compensation Programs (OWCP) denying her traumatic injury claim. Pursuant to the Federal Employees' Compensation Act (FECA)[1] 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 a right wrist injury while in the performance of duty on March 20, 2010.

FACTUAL HISTORY

On May 13, 2010 appellant, a 45-year-old security screener, filed a traumatic injury claim alleging that he sprained his right wrist while lifting a bag on March 20, 2010. The employing

[1] 5 U.S.C. § 8101 *et seq.*

establishment controverted the claim on the grounds that he did not seek medical treatment for more than a month following the claimed incident.

Appellant submitted May 3, 2010 progress notes from Dr. Christian Madsen, Board-certified in family medicine, who diagnosed "pain in joint involving forearm" and noted "April 20, 2010" as the injury date. Dr. Madsen stated that appellant noted some soreness at work in the evening and, by the time he reached his home, he was in a great deal of pain. Appellant reportedly recalled no specific incident that triggered his condition, and there had been no change in his schedule or type of work he was performing. Examination revealed generalized tenderness to the carpal bones in the right wrist.

In a letter dated May 19, 2010, OWCP informed appellant that information submitted was insufficient to establish his claim and allowed him 30 days to submit additional information, including a detailed account of the alleged injury and a physician's report, with a diagnosis and a rationalized opinion as to the cause of the diagnosed condition.

Appellant submitted an April 29, 2010 duty status report and accompanying notes from Dr. Joseph S. Wolyniak, a family practitioner, who diagnosed sprain of unspecified site of wrist and pain in joint involving forearm. Noting a March 20, 2010 date of injury, Dr. Wolyniak stated that appellant could return to work with restrictions, including lifting, pulling and pushing a maximum of 30 pounds. In a separate report dated April 29, 2010, he related appellant's report that he was experiencing severe right wrist pain due to a lifting injury. Dr. Wolyniak noted decreased range of motion in the wrist and indicated by placement of a checkmark in the "yes" box that he believed appellant's condition was caused by the described employment activity.

In a May 3, 2010 duty status report, Dr. Madsen provided work restrictions, including lifting and carrying a maximum of 5 pounds continuously and 20 pounds intermittently, and limited use of the right hand. He diagnosed "sore wrist" due to an unknown injury. May 3, 2010 patient notes reflect a diagnosis of "sprain of radiocarpal (joint) (ligament) of wrist." Dr. Madsen recommended the use of a splint. On May 10, 2010 he diagnosed "wrist pain."

Appellant submitted May 21, 2010 progress notes from Dr. David Compton, a general practice physician, who diagnosed "wrist pain," noting an April 20, 2010 date of injury. Dr. Compton released appellant from care, indicating that he had no navicular tenderness or swelling.

In a May 24, 2010 statement, appellant indicated that his injury occurred at the end of his shift on the date in question, when he began to experience wrist discomfort. As he drove home, his wrist began aching and throbbing intensely. Appellant delayed seeking medical treatment because Ibuprofen and ice had masked the pain and he was not using his right wrist as often as usual. He finally sought treatment when the pain became intense.

By decision dated June 24, 2010, OWCP denied appellant's claim finding that the evidence failed to establish that the work event occurred as alleged and that the medical evidence did not contain a diagnosis that could be connected to the work injury. On July 7, 2010 appellant requested an oral hearing.

In an April 29, 2010 report, Dr. Wolyniak related appellant's complaints of right arm pain, which he reportedly injured on April 20, 2010. Appellant informed Dr. Wolyniak that he "believe[d] this injury happened from repetitive lifting and pulling bags off of revolving belt." He recalled that nine days earlier, he was repetitively lifting bags off of the baggage rack, and felt a sudden pain in the radial aspect of his right wrist. Initially insidious, the pain progressively worsened and had since progressed to include the right radial hand to the thumb, and proximally along the radius to the distal 1/3 of the forearm. Dr. Wolyniak reviewed the results of x-rays, which revealed no fractures, and diagnosed wrist sprain, radiocarpal (joint) (ligament).

On October 15, 2010 appellant submitted copies of previously submitted reports from Dr. Wolyniak and Dr. Madsen, which had been modified to reflect a March 20, 2010 date of injury. There were no notations on the reports indicating who had made or authorized the changes regarding the stated date of injury. The record contains a transcription from Dr. Wolyniak dated April 29, 2010 containing the following notation: "Chief Complaint states patient was injured on April 20, 2010. The actual date of injury was March 20, 2010."

Appellant submitted a note, written on a prescription pad, from Dr. Joseph McShea, a Board-certified osteopath, specializing in family medicine, who stated that appellant was injured on March 20, 2010 and was diagnosed with severe right wrist spasm. Dr. McShea indicated that his mechanism of injury was likely due to the repetitive motion of his work.

At the November 3, 2010 hearing, appellant testified that his pain commenced midday on March 20, 2010 and progressed until about 8:00 p.m., when it started to "really hurt." He attributed the pain to lifting bags all day. After icing his wrist and taking Ibuprofen, appellant went to work the following day, when he reported the injury to his supervisor. He continued to work until the end of the month, when his wrist started hurting again. Appellant stated that he had informed his doctors that he was injured on March 20, 2010, but his doctors incorrectly identified the date of injury on their initial reports as April 20, 2010.

By decision dated January 25, 2011, an OWCP hearing representative affirmed the denial of appellant's claim. He found that the incident occurred at the time, place and in the manner alleged. The hearing representative found, however, that the medical evidence was insufficient to establish that appellant sustained a medical condition in connection with the accepted event.

LEGAL PRECEDENT

FECA provides for payment of compensation for disability or death of an employee resulting from personal injury sustained while in the performance of duty.[2] The phrase "sustained while in the performance of duty" is regarded as the equivalent of the coverage

[2] 5 U.S.C. § 8102(a).

formula commonly found in workers' compensation laws, namely, arising out of and in the course of employment.[3]

An employee seeking benefits under FECA has the burden of proof to establish the essential elements of his 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, that an injury was sustained in the performance of duty as alleged, and that any disability or specific condition for which compensation is claimed is causally related to the employment injury.[4] When an employee claims that he sustained a traumatic injury in the performance of duty, he must establish the fact of injury, consisting of two components, which must be considered in conjunction with one another. The first is whether the employee actually experienced the incident that is alleged to have occurred at the time, place and in the manner alleged. The second is whether the employment incident caused a personal injury, and generally this can be established only by medical evidence.[5]

The claimant has the burden of establishing by the weight of reliable, probative and substantial evidence that the condition for which compensation is sought is causally related to a specific employment incident or to specific conditions of employment.[6] An award of compensation may not be based on appellant's belief of causal relationship.[7] Neither the mere fact that a disease or condition manifests itself during a period of employment nor the belief that the disease or condition was caused or aggravated by employment factors or incidents is sufficient to establish a causal relationship.[8] Simple exposure to a workplace hazard does not constitute a work-related injury entitling an employee to medical treatment under FECA.[9]

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 that includes a physician's rationalized opinion on whether there is a causal relationship between the claimant's diagnosed condition and the established incident or factor of employment. The opinion must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty and must be supported

[3] This construction makes the statute effective in those situations generally recognized as properly within the scope of workers' compensation law. *Charles E. McAndrews*, 55 ECAB 711 (2004); *see also Bernard D. Blum*, 1 ECAB 1 (1947).

[4] *Robert Broome*, 55 ECAB 339 (2004).

[5] *Deborah L. Beatty*, 54 ECAB 340 (2003). *See also Tracey P. Spillane*, 54 ECAB 608 (2003); *Betty J. Smith*, 54 ECAB 174 (2002). The term injury as defined by FECA, refers to a disease proximately caused by the employment. 5 U.S.C. § 8101 (5). *See* 20 C.F.R. § 10.5(q)(ee).

[6] *Katherine J. Friday*, 47 ECAB 591, 594 (1996).

[7] *Dennis M. Mascarenas*, 49 ECAB 215, 218 (1997).

[8] *Id.*

[9] 20 C.F.R. § 10.303(a).

by medical rationale explaining the nature of the relationship between the diagnosed condition and the established incident or factor of employment.[10]

ANALYSIS

OWCP accepted that appellant was a federal employee, that he timely filed his claim for compensation benefits and that the March 20, 2010 workplace incident occurred as alleged. The issue, therefore, is whether he has submitted sufficient medical evidence to establish that the employment incident caused an injury. The medical evidence presented does not contain a rationalized medical opinion establishing that the work-related incident caused or aggravated any particular medical condition or disability. Therefore, appellant has failed to satisfy his burden of proof.

Medical evidence submitted by appellant included reports from Dr. Wolyniak. In an April 29, 2010 duty status report, Dr. Wolyniak related appellant's report that he was experiencing severe right wrist pain due to a lifting injury. He noted decreased range of motion in the wrist and diagnosed sprain of unspecified site of wrist and pain in joint involving forearm. Dr. Wolyniak indicated by placing a checkmark in the "yes" box that he believed appellant's condition was caused by the described employment activity. This report is deficient on several counts. Dr. Wolyniak did not provide a definitive diagnosis. The Board has consistently held that pain is a symptom, not a diagnosed condition, and, without objective physical or diagnostic findings to support a condition causing the pain, is not compensable under FECA.[11] Moreover, Dr. Wolyniak's affirmative notation in response to a form question on causal relationship is not sufficient to establish appellant's claim.[12] He did not describe how the accepted event was competent to cause appellant's condition.

In a separate report dated April 29, 2010, Dr. Wolyniak reviewed the results of x-rays, which revealed no fractures and diagnosed wrist sprain. Although he provided a specific diagnosis, his report does not support that appellant sustained an injury as a result of the accepted March 20, 2010 incident. Appellant told Dr. Wolyniak that he believed his injury was due to repetitively lifting bags off of the baggage rack on April 20, 2010. His belief that his wrist condition was caused or aggravated by employment factors, is sufficient to establish causal relationship.[13] Dr. Wolyniak's report does not reflect his own opinion as to the cause of appellant's diagnosed wrist sprain. Medical evidence which does not offer any opinion regarding the cause of an employee's condition is of limited probative value.[14]

Reports from Dr. Madsen are also insufficient to establish appellant's claim. On May 3, 2010 Dr. Madsen diagnosed "pain in joint involving forearm." He related appellant's report that

[10] *John W. Montoya*, 54 ECAB 306 (2003).

[11] *See Robert Broome*, 55 ECAB 493 (2004); *John L. Clark*, 32 ECAB 1618 (1981).

[12] *See Gary J. Watling*, 52 ECAB 278 (2001).

[13] *Id.*

[14] *Michael E. Smith*, 50 ECAB 313 (1999).

he noted some soreness at work in the evening and, by the time he reached his home, he was in a great deal of pain. In an accompanying duty status report, Dr. Madsen provided work restrictions and diagnosed "sore wrist" due to an unknown injury. May 3, 2010 patient notes reflected a diagnosis of "sprain of radiocarpal (joint) (ligament) of wrist." On May 10, 2010 Dr. Madsen diagnosed "wrist pain." None of his reports contains an opinion as to the cause of appellant's wrist condition. Therefore, they are of limited probative value and insufficient to establish appellant's claim.

Appellant submitted copies of reports from Dr. Wolyniak and Dr. Madsen that had been modified to reflect a March 20, 2010 date of injury. The record also contains a transcription from Dr. Wolyniak dated April 29, 2010 indicating that appellant was injured on March 20, 2010, rather than on April 20, 2010. As noted, the previously discussed reports do not contain a rationalized opinion relating appellant's wrist condition to the accepted March 20, 2010 event. Therefore, they are of diminished probative value. The identification of the date of injury does not cure this deficiency.

In a November 1, 2010 note, written on a prescription pad, Dr. McShea stated that appellant was injured on March 20, 2010 and was diagnosed with severe right wrist spasm. He indicated that his mechanism of injury was likely due to the repetitive motion of his work. Dr. McShea's brief note does not contain a complete factual or medical background, examination findings or a definitive diagnosis.[15] Moreover, it does not contain an unequivocal opinion regarding the cause of appellant's wrist condition. Dr. McShea did not explain how appellant's work activities on March 20, 2010 were competent to cause a diagnosed condition. For all of these reasons, his report is of diminished probative value.

The remaining medical evidence of record, including progress notes that do not contain an opinion on the cause of appellant's condition, is of limited probative value. The record does not contain an opinion by any qualified physician supporting appellant's contention that his right wrist condition was causally related to the accepted employment incident.

OWCP advised appellant that it was his responsibility to provide a comprehensive medical report which described his symptoms, test results, diagnosis, treatment and the doctor's opinion, with medical reasons, on the cause of his condition. Appellant failed to submit such medical documentation in response to OWCP's request. As there is no probative, rationalized medical evidence addressing how his wrist condition was caused or aggravated by the accepted incident, he has not met his 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 failed to meet his burden of proof to establish that he sustained a traumatic injury in the performance of duty on March 20, 2011.

[15] The Board notes that a wrist spasm is a symptom rather than a diagnosed condition.

ORDER

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

Issued: October 5, 2011
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