

a left hip, left leg and low back injury after being hit by a car door due to a gust of wind while reaching into a vehicle to retrieve work materials.

By letter dated June 4, 2010, OWCP requested additional factual and medical evidence. It allotted appellant 30 days to submit additional evidence and respond to its inquiries.

In a June 9, 2010 report, Dr. Mark L. McClanahan, a Board-certified family medicine osteopath, diagnosed left hip pain secondary to sacroilitis and sciatica, possibly related to radiculopathy. He reported that appellant's left hip pain was described more as posterior in nature, but at times radiated down the posterior leg all the way to the heel. Dr. McClanahan noted that she had been on treatment for sciatica and that the precipitating injury was that she was bumped by a car door.

On June 16, 2010 Dr. McClanahan diagnosed left hip pain secondary to sciatica/radiculitis and lumbar region pain. He reported some mild tenderness about the left sciatic nerve and reiterated that the apparent precipitating event was the car door hitting her hip.

On June 30, 2010 Dr. McClanahan reiterated his diagnoses and placed appellant in limited-duty work status.

Appellant also submitted physical therapy notes dated May 17 to 28, 2010.

By decision dated July 8, 2010, OWCP denied appellant's claim on the basis that the factual and medical evidence submitted was insufficient to establish causal relationship between the diagnosed conditions and the May 4, 2010 employment incident.

On July 22, 2010 appellant requested reconsideration and submitted additional evidence, including two May 13, 2010 radiological reports demonstrating a normal left hip and osteopenia of the lumbar spine. In a July 14, 2010 report, Dr. McClanahan indicated that upon her presentation on May 10, 2010 she reported that the wind blew her car door, causing it to strike her and twist her back. Appellant had symptoms since that time. Dr. McClanahan opined that her injury was employment related and that a medical provider could not be expected to provide any more evidence other than a patient's subjective history of injury. Appellant reported that she did report the injury to her supervisor, which in Dr. McClanahan's opinion, further substantiated her claim. In a second July 14, 2010 report, Dr. McClanahan reiterated his diagnoses and increased her work status to where she could work eight hours a day with a 25-pound lifting restriction. In a July 30, 2010 report of medical evaluation, he indicated that appellant had reached maximum medical improvement that same day and checked a box indicating his certification that she did not have any permanent impairment as a result of the May 4, 2010 injury.

Appellant also submitted reports by Lisa Allen, a physician's assistant, dated May 10 to 28, 2010.

By decision dated September 24, 2010, OWCP denied modification of a July 20, 2007 decision regarding appellant's occupational disease claim, which was doubled under the current claim.

On February 17, 2011 appellant requested reconsideration and submitted a narrative statement from that same day, a map of the area where she was working during the employment incident and a wind data report of the area on May 4, 2010.

By decision dated April 22, 2011, OWCP affirmed its July 8, 2010 decision, noting that this decision superseded the decision dated September 24, 2010. It found that the evidence submitted failed to establish causal relationship between the May 4, 2010 employment incident and the claimed medical conditions.

LEGAL PRECEDENT

An employee seeking benefits under FECA² 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 injury³ 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.⁴

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.⁵

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 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.⁶

² *Id.* at §§ 8101-8193.

³ 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).

⁴ *T.H.*, 59 ECAB 388 (2008). See *Steven S. Saleh*, 55 ECAB 169 (2003); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁵ *Id.* See *Shirley A. Temple*, 48 ECAB 404 (1997); *John J. Carlone*, 41 ECAB 354 (1989).

⁶ *Id.* See *Gary J. Watling*, 52 ECAB 278 (2001).

ANALYSIS

OWCP has accepted that the employment incident of May 4, 2010 occurred at the time, place and in the manner alleged. The issue is whether appellant's left hip, left leg and low back conditions resulted from the May 4, 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 May 4, 2010 employment incident.

In his reports, Dr. McClanahan diagnosed left hip pain and lumbar region pain. He reported that a wind blew appellant's car door and caused it to strike her and twist her hip and back. On July 14, 2010 Dr. McClanahan opined that her injury was employment related and that a medical provider could not be expected to provide any more evidence other than a patient's subjective history of injury. Appellant reported that she did report the injury to her supervisor, which in Dr. McClanahan's opinion, further substantiated her claim. On July 30, 2010 Dr. McClanahan indicated that she had reached maximum medical improvement that same day and checked a box indicating his certification that appellant did not have any permanent impairment as a result of the May 4, 2010 injury. 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.⁷ The Board finds that Dr. McClanahan failed to directly address the issue of causal relationship as he did not explain how the mechanism of the May 4, 2010 employment incident caused or aggravated appellant's conditions. Dr. McClanahan did not provide medical rationale explaining how appellant's left hip, left leg and low back conditions were caused or aggravated by being struck by a car door on May 4, 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 May 4, 2010.

The May 13, 2010 radiological reports are diagnostic in nature and therefore do not address causal relationship. The reports from Ms. Allen, a physician's assistant, are of no probative value as she is not a physician under FECA.⁸ Similarly, the physical therapy notes dated May 17 to 28, 2010 do not constitute medical evidence as they were not prepared by a physician.⁹ As such, the Board finds that appellant did not meet her burden of proof with these submissions.

In support of her February 17, 2011 request for reconsideration, appellant submitted a map of the area where she was working during the employment incident and a wind data report of the area on May 4, 2010. However, causal relationship is a medical question that can generally be resolved only by rationalized medical opinion evidence.¹⁰ These documents do not

⁷ See *C.B.*, Docket No. 09-2027 (issued May 12, 2010); *S.E.*, Docket No. 08-2214 (issued May 6, 2009).

⁸ 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).

⁹ Physical therapists are not physicians under FECA. See 5 U.S.C. § 8101(2).

¹⁰ See *Robert G. Morris*, 48 ECAB 238 (1996).

constitute medical evidence and appellant's submission thereof is insufficient to establish causal relationship.

As appellant has not submitted any rationalized medical evidence to support her allegation that she sustained an injury causally related to a May 4, 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 hip, left leg and low back conditions were sustained on May 4, 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 22, 2011 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: April 9, 2012
Washington, DC

Richard J. Daschbach, Chief Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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