

FACTUAL HISTORY

On January 7, 2011 appellant, then a 45-year-old rural route driver, filed a claim for traumatic injury, alleging that she had been involved in a motor vehicle accident on January 6, 2011 while at work and that she had sustained a back injury as a result of the incident.

By letter dated January 19, 2011, OWCP advised appellant of the evidence to establish her claim. Appellant was asked to provide details regarding the time and place of the incident, and submit a medical report which included dates of examination and treatment, history and date of injury, detailed description of findings, results of tests, diagnoses, clinical course of treatment and the physician's opinion, supported by medical rationale, as to how the reported incident caused or aggravated her medical condition.

In a January 7, 2011 CA-16 form, Dr. Roger B. Shambo, Board-certified in family medicine, stated a diagnosis of "low back pain." He noted that appellant's back pain started shortly after the motor vehicle accident at work.

Appellant also submitted Dr. Shambo's treatment notes dated January 7 to 25, 2011. Dr. Shambo reported that, after the vehicular accident, appellant's range of motion was limited in all directions, and that she felt tenderness in her low back, upper buttocks, knee and thumb. He again diagnosed back pain.

In a January 11, 2011 radiology report, Dr. Daryl Henderson, a Board-certified diagnostic radiologist, noted that x-rays of appellant's lumbar spine were obtained that date because she was involved in a motor vehicle accident on January 6, 2011. The report found no acute fracture, subluxation or destructive osseous lesion.

Appellant submitted a supplemental statement dated January 25, 2011 in which she explained that she was in the middle of delivering her route on January 6, 2011. After beginning a left hand turn, another automobile attempted to pass on the left and struck her vehicle at a high rate of speed.

In a January 25, 2011 letter, Dr. Shambo stated that appellant was in a motor vehicle accident on January 6, 2011, when her car was struck at high speed in the rear of the driver's side. Appellant developed bilateral lower back pain throughout the rest of that day. Dr. Shambo found that she had marked pain which limited her range of motion, and was tender over the lower lumbar and upper buttock areas. He noted that appellant would begin physical therapy.

OWCP denied appellant's claim by decision dated February 23, 2011, finding that the evidence failed to support that appellant had sustained an injury as defined by FECA.

Appellant requested a review of the written record on March 5, 2011. She submitted a March 3, 2011 attending physician's report from Dr. Shambo, who again diagnosed appellant's condition as back and neck pain and found that she could not return to work until her condition had improved.

By decision dated May 16, 2011, OWCP's hearing representative affirmed the denial of appellant's claim on the grounds that the medical evidence was insufficient to establish that she had sustained an injury causally related to the January 6, 2011 incident.

LEGAL PRECEDENT

An employee seeking benefits under FECA³ has the burden to establish the essential elements of 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, that an injury 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 first must be determined whether the fact of injury has been established. There are two components involved in establishing the fact of injury. 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.⁵ Second, the employee must submit evidence, in the form of medical evidence, to establish that the employment incident caused a personal injury.⁶

Rationalized medical opinion evidence is medical evidence which includes a physician's 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, 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 compensable employment factors identified by the claimant.⁷

ANALYSIS

OWCP accepted that appellant was involved in a motor vehicle accident on January 6, 2011 in the performance of duty. It denied the claim on the grounds that she did not establish that she sustained an injury as a result. The Board finds that appellant has submitted insufficient medical evidence to establish that she sustained a medical condition causally related to the accepted work incident of January 6, 2011.

Dr. Shambo submitted several medical reports which described appellant's symptoms following the incident. However, the Board notes that none of the records submitted by

³ 5 U.S.C. §§ 8101-8193.

⁴ *Steven S. Saleh*, 55 ECAB 169 (2003); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁵ *Bonnie A. Contreras*, 57 ECAB 364, 367 (2006); *Edward C. Lawrence*, 19 ECAB 442, 445 (1968).

⁶ *T.H.*, 59 ECAB 388 (2008); *John J. Carlone*, 41 ECAB 354, 356-57 (1989).

⁷ *D.G.*, 59 ECAB 734 (2008); *G.T.*, 59 ECAB 447 (2008); *I.J.*, 59 ECAB 408 (2008).

appellant provide a firm medical diagnosis of her condition. Dr. Shambo consistently characterized appellant's condition as "back pain." The Board has held that pain is generally considered a symptom, not a firm medical diagnosis.⁸ As such, the medical reports lack probative value in determining whether appellant had sustained a work injury.

The only other medical evidence received was a January 11, 2011 radiology report from Dr. Henderson. However, Dr. Henderson stated that appellant's x-ray examination of the lumbar spine was within normal limits. He did not diagnose a back condition causally related to the January 6, 2011 incident.

OWCP notified appellant in its January 19, 2011 letter that, in order to establish her claim, she needed to provide a medical report that contained a firm diagnosis of her condition as well as a medical rationale explaining the nature of the relationship between the diagnosed condition and the specific compensable employment factors. Appellant had failed to submit any medical evidence that meets this requirement. As there is no medical evidence diagnosing her with a medical condition, appellant failed to establish the medical component of her claim.

Although OWCP denied appellant's claim of injury, it did not adjudicate the issue of whether she should be reimbursed for incurred medical expenses. The employing establishment authorized treatment for her with a CA-16 form on January 7, 2011. A properly executed CA-16 form creates a contractual obligation, which does not involve the employee directly, to pay the cost of the examination or treatment regardless of the action taken on the claim.⁹ OWCP did not address this issue in its decision.

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 failed to establish that she sustained a medical condition causally related to her accepted employment incident. The Board further finds that OWCP should adjudicate the issue of whether she should be reimbursed for incurred medical expenses, pursuant to the January 7, 2011 CA-16 form.

⁸ *J.W.*, Docket No. 11-1475 (issued December 7, 2011); *Robert Broome*, 55 ECAB 339, 342 (2004).

⁹ *See M.M.*, Docket No. 11-1544 (issued March 12, 2012); *Elaine M. Kreyborg*, 41 ECAB 256, 259 (1989).

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated May 16, 2011 is affirmed.

Issued: May 25, 2012
Washington, DC

Alec J. Koromilas, Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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