



when she slipped on a floor runner and fell to the floor, hitting or striking her head on a desk. She stated that she managed to get up, was very weak, blacked out or lost consciousness, became speechless and was sent to the hospital. Appellant described the nature of her injury as “contusion to head, neck, back little movement soreness, knees/legs weak no stability, loss of speech, arms numbness shoulder stiffness.”

Emergency medical services took appellant to a hospital on the morning of April 6, 2012. The history was described as follows:

“Patient found as above. Patient is a 54-year-old black female who complained of a headache at 7:00 this morning and took some Tylenol at 7:15. A co-worker states she went to get her a donut and when she came back the patient was confused and disoriented and unable to speak. Patient conscious, attempts to obey commands but is unable.”

On examination, appellant’s face and head were found to be atraumatic. The sudden onset of headache was labeled a risk consideration and her diagnosis was given as altered mental state with generalized weakness, rule out cerebrovascular accident. Hypertension was seen as a risk factor for subarachnoid hemorrhage.

Because appellant had possibly suffered a stroke, she was referred on the day of the incident to Dr. Ashish K. Masih, a Board-certified neurologist, for consultation, who related the following history:

“The patient is a 58-year-old right-handed African American female with history of hypertension who presents with an unusual episode of language impairment. She states at 7 o’clock this morning, she was at work. She developed a sudden onset of headache that was diffuse and was sharp in nature. The patient states that, at 7:30, she had felt unsteady and fell into her desk and struck her head. The patient states that at that point in time, she had language disturbance with difficulty producing her speech. The patient was taken immediately to Midwest Regional Medical Center where I received a phone call from the emergency room physician requesting advice for treatment of tissue plasminogen activator due to lack of focality of her exam.”

Dr. Masih added that appellant had a stat magnetic resonance imaging (MRI) scan, which showed possible subacute infarct of the left internal capsule. He examined her and diagnosed a possible left subcortical stroke, though this was likely to be an artifact on the MRI scan as there was no correlation. Dr. Masih stated that appellant would be admitted for a stroke workup.

Dr. Masih continued to evaluate appellant for spells of amnesia. He noted on May 7, 2012 that she was having blackout spells with no loss of consciousness. “Onset was 11/11 after patient struck her head on a car. Patient states this will occur about 2 week.”

In an April 23, 2012 incident report, appellant described what happened on April 6, 2012: “Enter office slipped & fell hitting my head on desk gotten up and was sitting at desk & black out.” Asked what object or substance directly harmed her, she answered: “floor runner & desk.”

On April 25, 2012 appellant was seen for a recheck status post stroke she stated that she had on April 6, 2012 while at work. “She said when she fell she hit her head.”

Roger S. Chapa stated that on April 6, 2012 he went into the clerk’s office to sharpen his pencil and appellant was sitting at her desk. “I said good morning and she looked up at me but did not respond. I did not notice anything wrong with [appellant] at the time, approximately 7:00 a.m.”

Teresa Sheehan provided the following statement on May 22, 2012:

“On Friday April, 6, 2012, around 7:00 a.m., I took a donut down to [appellant] for breakfast. When I walked in her office she was blinking a lot and her eyes were watery. I asked her if she was OK and she said her head hurt really bad. I got her a water and she took some Tylenol. I told her I would come back in awhile and check on her. I went back to check on her about 15 minutes later and she was sitting at her desk staring at her computer. I asked her if she was ok and all she said was ‘I,I,I’ and never completed her sentence. Mr. Rodriguez came in and was trying to talk to her and she was unresponsive. He called 911 and she began to cry. She had all the contents of her badge holder laid out in front of her and picked up her CAC card and started swiping it down the 10 key on the computer keyboard like it was an ATM. She did cry. The paramedics arrived and she never responded to their questions either. They lifted her onto a gurney and put her in an ambulance.”

Appellant saw Dr. M. Stephen Wilson, II, an orthopedic surgeon, on May 24, 2012. Dr. Wilson reported the following history of injury:

“On April 6, 2012 while at Tinker Air Force Base performing her work-related duties as a secretary, [appellant] was walking to her desk when she tripped over a runner on the floor and fell forward, hitting her head on a nearby desk and landing on her left knee. She struggled to rise back to her feet, but was able to eventually get into a chair. [Appellant] felt extreme weakness at that time and her forehead was bleeding and she temporarily lost consciousness (according to coworkers) and she was unable to speak upon regaining consciousness.”

Mr. Chapa provided an additional statement: “On 06, April 12 when I was in the secretary’s office sharpening my pencil I did not observe any injuries or bleeding on [appellant]. As stated before I said good morning and she looked up and did not respond, she was just sitting at her desk and continued to stare at her computer.”

Responding to questions posed by OWCP, appellant described how the injury occurred: “I entered my office and started around the end of the desk when I tripped or slipped on the runner on the floor. I fell forward hitting my head on the desk I landed on my knees and my arms. I fell approximately 3 feet to the floor (I never measured it) and I struggle trying to get back up.” She stated that she thought Ms. Sheehan came into her office first. “I can’t remember what was said.” Appellant stated: “I had a headache and could not comprehend and could not

speaking. I was in a daze according to a co-worker. I just sat there, no knowledge of what had happened.”

In a July 16, 2012 decision, OWCP denied appellant’s traumatic injury claim. It found that she failed to establish the factual component of her claim. OWCP noted that appellant had not provided any factual evidence to support that she actually experienced the incident as described on her claim form. It observed that she provided an inconsistent description of how the injury occurred. OWCP also observed that the medical evidence did not support that appellant’s medical condition resulted from a specific event or incident.

Appellant explained that neither Ms. Sheehan, Mr. Rodriguez nor Mr. Chapa were in the room when she fell. She stated that “no one knew I had fall[en] and hit my head” and inquired as to who informed the emergency paramedics and Midwest City Hospital of her conditions and where did all the different times come from? Appellant advised that the incident report was the first form she filled out and the information was there and was true.

During a telephonic hearing before an OWCP hearing representative on November 6, 2012, appellant testified that she entered her office on April 6, 2012 got to the end of her desk and made the little turn to go around to her seat when she tripped on the runner on the floor. She stated that she fell forward, hitting her head on her desk and she fell to the floor. Appellant stated that no one was present when she fell. She stated that she did not feel unsteady before she fell. Appellant testified that she could not remember what happened at the hospital: “I was kind of out of it so I can’t remember the details.” She was able to testify that she struck her head on the desk. Appellant stated that she had a bump in the top of her head.

By decision dated January 18, 2013, the hearing representative affirmed the denial of appellant’s injury claim. He noted that there was no mention of her having tripped, slipped or fallen over a runner or having struck her head until May 24, 2012, more than a month and a half after the alleged injury. Emergency room records gave no indication of injury to the head, neck, back or extremity until more than a month and a half later, when the history changed. The hearing representative found that appellant did not fall or strike her head, as alleged.

### **LEGAL PRECEDENT**

FECA provides compensation for the disability of an employee resulting from personal injury sustained while in the performance of duty.<sup>2</sup> An employee seeking benefits under FECA has the burden of proof to establish the essential elements of his or her claim. When an employee claims that he or she sustained an injury in the performance of duty, she or he must submit sufficient evidence to establish that he or she experienced a specific event, incident or exposure occurring at the time, place and in the manner alleged. He or she must also establish that such event, incident or exposure caused an injury.<sup>3</sup>

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<sup>2</sup> 5 U.S.C. § 8102(a).

<sup>3</sup> *John J. Carlone*, 41 ECAB 354 (1989).

To establish that an injury occurred as alleged, the injury need not be confirmed by eyewitnesses, but the employee's statements must be consistent with the surrounding facts and circumstances and her subsequent course of action. In determining whether a *prima facie* case has been established, such circumstances as late notification of injury, lack of confirmation of injury and failure to obtain medical treatment may, if otherwise unexplained, cast sufficient doubt on a claimant's statements. The employee has not met this burden when there are such inconsistencies in the evidence as to cast serious doubt on the validity of the claim.<sup>4</sup>

### ANALYSIS

It is not clear what happened on April 6, 2012. From the history reflected in most of the contemporaneous medical records, appellant complained of the sudden onset of a headache around 7:00 a.m. that morning, took some Tylenol around 7:15 a.m. and by the bottom of the hour appeared confused and disoriented, unable to speak and unable to obey commands. This history made no mention of slipping or tripping on a runner, falling and striking her head on a desk.

When Dr. Masih, the consulting neurologist, saw appellant later that day for a possible stroke, the history he noted was that she developed a sudden onset of headache, diffuse and sharp, around 7:00 a.m. By 7:30 a.m. appellant felt unsteady and fell into her desk and struck her head. This history made no mention of Tylenol or slipping or tripping on a runner.<sup>5</sup>

Appellant's face and head were examined at the hospital that same morning and were found to be atraumatic. There was no finding of a bleeding forehead or bump in the top of her head, as she would later allege. No coworker who saw her that morning mentioned that her forehead was bleeding.

Ms. Sheehan has offered the most reliable account of what happened. When she brought a donut to appellant around 7:00 a.m., appellant complained that her head hurt badly. Ms. Sheehan gave appellant water and appellant took Tylenol. She advised that she would return in a while to check on her. During this interaction, appellant made no mention that she had just tripped on a floor runner and struck her head on the desk. Ms. Sheehan's failure to do so would be consistent with the history related by Dr. Masih, who indicated that appellant felt unsteady around 7:30 a.m. (after Ms. Sheehan had left the office) and fell into her desk.

However, appellant would later explain in her testimony before the hearing representative that it was when she entered the office and began to make the turn around her desk that she tripped on the runner and fell and struck her head. In this account, she did not feel unsteady before the fall. It was after appellant struck her head and scrambled into her seat that Ms. Sheehan arrived. In this account, she did not initially suffer the sudden onset of a bad headache; she fell and struck her head first. This is inconsistent with the history that Dr. Masih

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<sup>4</sup> *Carmen Dickerson*, 36 ECAB 409 (1985); *Joseph A. Fournier*, 35 ECAB 1175 (1984). See also *George W. Glavis*, 5 ECAB 363 (1953).

<sup>5</sup> The record does not disclose whether Dr. Masih, in screening appellant for a possible stroke, asked her whether she had fallen or otherwise struck her head.

related. Although appellant was able to communicate to Ms. Sheehan that she had a bad headache, she inexplicably failed to mention that she had just fallen and stuck her head.

The Board finds that there are too many inconsistencies in the evidence to establish that appellant fell on April 6, 2012 and struck her head, as alleged. Appellant is the only source for this information, but she is not a reliable source. She was found to be confused and disoriented, unable to form a sentence or obey commands. Appellant displayed odd behavior. She stated that she just sat there with “no knowledge of what had happened,” that she was “kind of out of it” and unable to remember certain details. Dr. Masih continued to evaluate her for spells of amnesia.

Coupled with this, very likely because of this, the record presents an unclear history of what actually happened on April 6, 2012. Evidence confirms that appellant was suffering from a bad headache around 7:00 a.m. She took Tylenol. Shortly, thereafter, appellant appeared confused and disoriented. Evidence does not confirm that she slipped or tripped on a runner, that she fell into her desk or that she struck her head. What evidence there is on this point is inconsistent.

Accordingly, the Board finds that appellant has not met her burden to establish that she experienced a specific event, incident or exposure occurring at the time, place and in the manner alleged. Although the evidence establishes that appellant suffered the sudden onset of a bad headache at work, the mere fact that a condition manifests itself or worsens during a period of federal employment raises no inference of causal relationship between the two.<sup>6</sup> Because she has failed to establish a factual basis for her traumatic injury claim, the Board will affirm OWCP’s January 18, 2013 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 has not met her burden to establish that she sustained an injury in the performance of duty on April 6, 2012, as alleged.

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<sup>6</sup> *Steven R. Piper*, 39 ECAB 312 (1987). Mere temporal relationships are thus distinguished from relationships of causation.

**ORDER**

**IT IS HEREBY ORDERED THAT** the January 18, 2013 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: August 14, 2013  
Washington, DC

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

Patricia Howard Fitzgerald, Judge  
Employees' Compensation Appeals Board

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