

FACTUAL HISTORY

On April 25, 2006 appellant, then a 68-year-old clerk, filed a traumatic injury claim alleging that on April 17, 2006 she injured her left leg when an unsecured gate fell on her leg. She stopped work on April 18, 2006 and returned to work on April 20, 2006. Also submitted were a statement from appellant describing the injury, an April 17, 2006 employer health unit report noting the history of injury and that appellant's left leg was swollen and an April 18, 2006 disability certificate from Dr. F. Rose Jahroumi, a Board-certified family practitioner who noted examining appellant for a left leg injury sustained at work. Thereafter, the claim was dormant until April 2012 when appellant submitted physical therapy requests.

In an April 26, 2012 letter, OWCP advised appellant that it required additional medical evidence in support of her claim. It requested a comprehensive medical report from a physician which includes a history of the claimed work injury and which diagnoses a medical condition causally related to the claimed work injury and contains medical rationale for the opinion provided. Appellant was given 30 days to submit the requested information.

Appellant submitted an April 23, 2012 statement noting that she was submitting medical documentation for her left knee and leg injury. In medical reports dated August 20, 2010 and May 23, 2011, Dr. Mark Madden, a Board-certified orthopedic surgeon, noted that appellant had some left knee pain from her previous work injury. No diagnosis or work history was provided.

In a September 4, 2009 report, Dr. George Aguiar, a Board-certified orthopedic surgeon, noted that appellant presented with left knee pain which increased while gardening in her yard. An impression of patellofemoral degenerative joint disease and patellofemoral pain syndrome was provided from x-rays of the left knee. Appointment records from December 9, 16 and 23, 2009 reveal that appellant was provided injections in her left knee for osteoarthritis. Also submitted were physical therapy records, magnetic resonance imaging (MRI) scan tests of appellant's left knee dated April 16, 2008 and January 11, 2012 and a November 19, 2008 left knee operative report for partial medial and lateral meniscal tears with osteoarthritis of left knee.

By decision dated June 4, 2012, OWCP denied appellant's claim on the basis that causal relationship was not established. It noted that the evidence submitted was insufficient to establish that the medical condition was causally related to the accepted work event.

LEGAL PRECEDENT

An employee seeking benefits under FECA has the burden of establishing that 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 injury was sustained in the performance of duty as alleged, and that any disability and/or specific condition for which compensation is claimed are causally related to the employment injury.³ These are the essential elements of each and every

³ *Joe D. Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁴

To determine whether an employee actually sustained an injury in the performance of duty, OWCP begins with an analysis of whether fact of injury has been established. Generally, fact of injury consists of two components which must be considered in conjunction with one another. The first component to be established is that the employee actually experienced the employment incident which is alleged to have occurred.⁵ The second component of fact of injury is whether the employment incident caused a personal injury and generally can be established only by medical evidence. To establish a causal relationship between the condition, as well as any attendant disability, claimed and the employment event or incident, the employee must submit rationalized medical opinion evidence, based on a complete factual and medical background, supporting such a causal relationship.⁶

Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized 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 of the claimant, 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 claimant.⁷ The weight of medical evidence is determined by its reliability, its probative value, its convincing quality, the care of analysis manifested and the medical rationale expressed in support of the physician's opinion.⁸

ANALYSIS

OWCP accepted that on April 17, 2006 appellant experienced the claimed event of an unsecured gate falling on her left leg. The Board finds, however, that the medical evidence is insufficient to establish that she sustained a left knee or leg injury on or about April 17, 2006 causally related to the claimed incident.

As noted, after filing the claim in 2006, the matter was dormant until 2012. On April 18, 2006 Dr. Jahroumi took appellant off work on April 18, 2006 for an injury to her left leg at

⁴ *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁵ *Michael E. Smith*, 50 ECAB 313 (1999).

⁶ *Id.*

⁷ *Leslie C. Moore*, 52 ECAB 132 (2000).

⁸ *Franklin D. Haislah*, 52 ECAB 457 (2001) (medical reports not containing rationale on causal relationship are entitled to little probative value); *Jimmie H. Duckett*, 52 ECAB 332 (2001).

work.⁹ However, Dr. Jahroumi provided no clear diagnosis and did not address how an injury was caused by particular work factors. Thus, this report is of limited probative value.¹⁰

The reports of diagnostic testing, the November 19, 2008 left knee operative report and Dr. Aguiar's September 4, 2009 report are insufficient to establish the claim as they do not specifically address causal relationship between the April 17, 2006 work incident and a diagnosed medical condition.¹¹ Moreover, Dr. Aguiar's report indicates that appellant's left knee pain increased while doing yard work. Appellant presented no medical evidence from a physician providing a reasoned opinion that explains why her current left knee condition is causally related to the April 17, 2006 work incident. The need for medical reasoning is particularly important since the claim was dormant for a number of years after 2006. Thus, the medical reports submitted are insufficient to establish appellant's claim.

Appellant also submitted physical therapy records in support of her claim. However, lay individuals such as physician's assistants, nurses and physical therapists are not competent to render a medical opinion under FECA.¹² Thus, records from nonphysicians are of no probative medical value in establishing the claim.

Consequently, the medical evidence is insufficient to establish a causal relationship between specific factors or conditions of employment and the diagnosed medical conditions.

On appeal, appellant contended that the medical evidence supported her left leg conditions. However, as noted above, the medical evidence is insufficient to establish that the April 17, 2006 incident caused or aggravated a diagnosed medical condition.

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.

⁹ The employing establishment's health unit's April 17, 2006 treatment record cannot be considered as probative medical evidence as there is no indication that it was signed by a physician. The Board has held that a medical report may not be considered as probative medical evidence if there is no indication that the person completing the report qualifies as a physician as defined in 5 U.S.C. § 8101(2). *C.B.*, Docket No. 09-2027 (issued May 12, 2010).

¹⁰ See *George Randolph Taylor*, 6 ECAB 986, 988 (1954) (where the Board found that a medical opinion not fortified by medical rationale is of little probative value).

¹¹ *Jaja K. Asaramo*, 55 ECAB 200 (2004) (medical evidence that does not offer any opinion regarding the cause of an employee's condition is of diminished probative value on the issue of causal relationship).

¹² *David P. Sawchuk*, 57 ECAB 316 (2006). See 5 U.S.C. § 8101(2) (defines the term "physician" as used in FECA).

CONCLUSION

The Board finds that appellant failed to meet her burden of proof to establish that she sustained a medical condition causally related to her April 17, 2006 employment incident.

ORDER

IT IS HEREBY ORDERED THAT the June 4, 2012 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: March 1, 2013
Washington, DC

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

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

Patricia Howard Fitzgerald, Judge
Employees' Compensation Appeals Board