

snow covered ice in the performance of duty. The employing establishment advised that there was no medical evidence to support the claim. Appellant stopped work on January 20, 2012.

In a separate statement, appellant explained that she was walking on the grass delivering mail when she slipped. Her feet went up in the air and she fell on her buttocks and hit her head. Appellant noted there was snow covered ice on the ground and she had to slide off of the ice before she could get up.

By letter dated February 22, 2012, OWCP advised appellant that additional factual and medical evidence was needed. Appellant was requested to provide dates of examination and treatment, a history of injury given by her to a physician, a detailed description of any findings, the results of all x-rays and laboratory tests, a diagnosis and course of treatment followed and a physician's opinion supported by a medical explanation as to how the reported work incident caused the claimed injury. OWCP explained that the physician's opinion was crucial to her claim and allotted 30 days within which to submit the requested information.

OWCP received a note from appellant advising that she was submitting another copy of the claim form. In a January 19, 2012 disability certificate, from an individual whose signature is illegible, appellant was placed off work until January 23, 2012.

By decision dated March 28, 2012, OWCP denied appellant's claim finding that she did not establish an injury as alleged. It found that she did not submit sufficient medical evidence to establish that she sustained injury due to the January 19, 2012 incident.

On April 25, 2012 appellant requested reconsideration. She explained that she was providing medical evidence in support of her claim. A January 19, 2012 emergency transport form related that appellant was found after she had slipped and fell on snow-covered ice. She was transported to the hospital.

A January 19, 2012 computerized tomography (CT) scan of the head read by Dr. Margaret Hollar, a diagnostic radiologist and an osteopath, revealed no acute intracranial abnormality, no evidence of mass lesion, intracranial hemorrhage or acute infarction. A January 19, 2012 CT scan of the cervical spine revealed no acute osseous abnormality.

A January 19, 2012 x-ray of the pelvis read by Dr. Karen S. Fitzgerald, a Board-certified diagnostic radiologist, revealed no definite fracture demonstrated, no dislocation and no typical findings of pelvic hematoma. OWCP also received January 19, 2012 emergency room discharge instructions. It also received a copy of the January 19, 2012 return to work note.

By decision dated May 17, 2012, OWCP denied modification of the March 28, 2012 decision.

LEGAL PRECEDENT

An employee seeking compensation under FECA has the burden of establishing the essential elements of his or her claim by the weight of reliable, probative and substantial

evidence,² including that he or she is an “employee” within the meaning of FECA and that he or she filed his or her claim within the applicable time limitation.³ The employee must also establish that he or she sustained an injury in the performance of duty as alleged and that his or her disability for work, if any, was 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 fact of injury has been established. There are two components involved in establishing 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. Second, the employee must submit medical evidence to establish that the employment incident caused a personal injury.⁵

Rationalized medical opinion evidence is generally required to establish causal relationship. 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 employment factors identified by the claimant.⁶

ANALYSIS

Appellant alleged that on January 19, 2012 she slipped and fell on snow-covered ice in the performance of duty. There is no dispute that she slipped and fell on snow-covered ice while in the performance of duty on that day. Appellant’s claim was denied by OWCP, finding insufficient medical evidence to establish that the incident caused injury.

The Board finds that the medical evidence is not sufficient to establish that the employment incident caused an injury. The medical reports of record do not relate a history of slipping and falling on snow-covered ice or provide a firm medical diagnosis or statement on causal relation.

Appellant provided a January 19, 2012 CT scan of the head from Dr. Hollar and an x-ray also dated January 19, 2012 from Dr. Fitzgerald. However, these diagnostic reports do not specifically address whether the accepted incident that day caused injury to her cervical spine or buttocks. Consequently, the Board finds that this evidence is insufficient to establish her claim.⁷

² *J.P.*, 59 ECAB 178 (2007); *Joseph M. Whelan*, 20 ECAB 55, 57 (1968).

³ *R.C.*, 59 ECAB 427 (2008).

⁴ *Id.*; *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

⁵ *T.H.*, 59 ECAB 388 (2008).

⁶ *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁷ To meet his or her burden of proof in establishing an injury in the performance of duty, a claimant must submit medical evidence on causal relationship between a diagnosed injury and the employment incident. The Board has held that medical evidence must be in the form of a reasoned opinion by a qualified physician based on a complete and accurate factual and medical history. *Thomas L. Agee*, 56 ECAB 465 (2005).

Appellant provided a January 19, 2012 disability certificate from an unknown healthcare provider placing her off work. The Board notes that it is not clear whether this report is from a physician as the signature is illegible. As the form cannot be properly identified as being prepared by a physician, it does constitute probative medical evidence in this case.⁸ The emergency transport form and discharge instructions are not from a physician and do not constitute competent medical evidence.⁹

In the present case, there is no reasoned medical evidence from a physician explaining how and why the employment incident on January 19, 2012 caused or aggravated a diagnosed medical condition.

For these reasons, appellant has not established that the January 19, 2012 employment incident caused a specific injury. The Board notes that appellant submitted evidence with her appeal to the Board. The Board cannot consider this evidence, however, as its review of the case is limited to the evidence of record which was before OWCP at the time of its final decision.¹⁰

Appellant may submit this or any new evidence or argument with a written request for reconsideration 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 of proof in establishing that she sustained an injury in the performance of duty.

⁸ *Vickey C. Randall*, 51 ECAB 357 (2000); *Merton J. Sills*, 39 ECAB 572, 575 (1988).

⁹ 5 U.S.C. § 8101(2) (this subsection defines a physician as surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors and osteopathic practitioners within the scope of their practice as defined by State law).

¹⁰ 20 C.F.R. § 501.2(c); *see Steven S. Saleh*, 55 ECAB 169 (2003).

ORDER

IT IS HEREBY ORDERED THAT the May 17, 2012 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: March 27, 2013
Washington, DC

Patricia Howard Fitzgerald, Judge
Employees' Compensation Appeals Board

Alec J. Koromilas, Alternate Judge
Employees' Compensation Appeals Board

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