

**United States Department of Labor
Employees' Compensation Appeals Board**

_____)	
T.G., Appellant)	
)	
and)	Docket No. 13-203
)	Issued: May 9, 2013
U.S. POSTAL SERVICE, POST OFFICE,)	
Jacksonville, AL, Employer)	
_____)	

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
COLLEEN DUFFY KIKO, Judge
PATRICIA HOWARD FITZGERALD, Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On November 2, 2012 appellant filed a timely appeal from the October 18, 2012 merit decision of the Office of Workers' Compensation Programs (OWCP) denying her claim for wage-loss compensation. Pursuant to the Federal Employees' Compensation Act¹ (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of the case.

ISSUE

The issue is whether appellant has established that she had sustained temporomandibular joint (TMJ) disorder causally related to her accepted September 3, 2010 employment injury.

FACTUAL HISTORY

On August 23, 2010 appellant, then a 39-year-old sales and service distribution clerk, filed a traumatic injury claim alleging that a coworker threatened her on August 2, 2010.

¹ 5 U.S.C. § 8101 *et seq.*

In a report dated September 22, 2010, appellant's treating physician, Dr. Glenn Archibald, a psychiatrist, diagnosed appellant with panic disorder and post-traumatic stress disorder. On October 19, 2010 OWCP accepted appellant's claim for acute reaction to stress temporary aggravation/single episode. A December 17, 2010 letter from the employing establishment postmaster stated that appellant had been detailed to the Anniston Post Office so that she would not have to work together with the clerk who threatened her. Appellant intermittently stopped work and received compensation.

By letter dated April 5, 2012, OWCP requested that Dr. Archibald clarify appellant's disability status. Dr. Archibald advised that appellant's current objective findings and diagnosis included post-traumatic stress disorder and major depression. He stated that appellant had residual disability causally related to the accepted injury due to the TMJ disorder symptoms, but that she had returned to full-duty work in January 2012, and she could continue to work as long as she did not work again with the coworker who threatened her.

In an April 26, 2012 report, Dr. Archibald related that he had been treating appellant for post-traumatic stress disorder and panic disorder since September 22, 2010. He further stated that appellant first complained of pain due to the TMJ condition on September 8, 2011 and she related first experiencing TMJ pain in April 2011, while working on detail in the Anniston Post Office. Appellant reported that she had continued to experience significant levels of anxiety, due to having to perform different tasks with unfamiliar personnel. Dr. Archibald explained that "It is widely accepted that TMJ pain is associated with and is symptomatic of stress, particularly when the onset or worsening occurs in a close temporal relation to elevated levels of stress such as that experienced by [appellant]." He concluded that he therefore diagnosed appellant's condition as pain disorder with associated psychological factors.

Appellant thereafter filed a series of claims for compensation, Form CA-7, alleging disability from June 16 to August 31, 2012, due to the August 2, 2010 employment injury.²

Along with her request, appellant submitted a June 21, 2012 report from Dr. Archibald who stated that she was suffering from severe symptoms of TMJ and should remain out of work until she is able to begin her treatment for her condition.

On June 26, 2012 OWCP informed appellant that the TMJ condition was not accepted as work related, as her claim was accepted for acute reaction to stress. Appellant was requested to submit further medical evidence to substantiate her claim of disability, causally related to the accepted injury.

Appellant submitted a July 19, 2012 report from Dr. Patrick Louis, a Board-certified oral and maxillofacial surgeon, who noted that appellant had related a 15-month history of popping at the right TMJ, with pain, worse when chewing, speaking or stressed. She had also related that her problems began because of an incident at work which caused her severe stress and associated grinding and clenching of her jaw. Regarding examination findings, Dr. Louis recorded "MIO is 18 [millimeters] (mm) with slight discomfort and can open to approximately 40 mm with pain. Occasional popping of right TMJ with function. Protrusive 4 mm, lateral excursive 8 mm

² Appellant continued to file CA-7 forms for additional periods of disability. The additional claimed periods of disability are not the subject of this appeal.

bilaterally.” He noted that appellant had experienced multiple transient ischemic attacks as a result of the pain, including one the night before. Dr. Louis diagnosed TMJ dysfunction and bruxism with myofascial pain with significant psychological overtones and concluded that appellant’s TMJ and myofascial pain were associated with the work-related stress.

On August 13, 2012 Dr. Archibald noted that appellant was still experiencing a great amount of stress, the consequences of which were leading to severe physical difficulties, including a worsening of her TMJ symptoms. He then opined that her stress and increasing TMJ pain led to increases in her blood pressure resulting in at least two “mini strokes” for which she has had to be hospitalized. Dr. Archibald opined that appellant should remain out of work until these issues have been resolved. In a report dated August 30, 2012, he related that she had been experiencing severe symptoms of TMJ, which he believed was directly related to anxiety and stress that appellant was still under at work. Dr. Archibald related that appellant stated that she had not been treated for her TMJ, but that the condition was improving and she requested that she be allowed to return to work.

OWCP referred appellant to Dr. Michael Colin, a Board-certified specialist in oral surgery, for a second opinion evaluation. In an October 10, 2012 report, Dr. Colin opined that appellant did not suffer from true TMJ condition. He stated that, after gentle manipulation, he was able to open her mouth to 40 mm without popping, clicking, or pain, that she had no abnormal range of motion and no abnormal findings in her temporomandibular joint, and that her muscles were extremely tender to palpation, both temporal is and massager. Dr. Colin felt that appellant’s subjective complaints outweigh very significantly any of the objective findings. He noted that she had stress-related muscle spasms and clenching, but he did not believe that these were related to a true TMJ abnormality. Dr. Colin declined to determine whether appellant had an acute reaction to stress as it is a psychiatric issue and beyond his scope of expertise. He further noted that TMJ patients typically had no limitations on work activities unless they were recovering from surgery.

On October 18, 2012 OWCP denied the claim on the grounds that the evidence of record did not establish that appellant sustained a work-related TMJ condition.

LEGAL PRECEDENT

An employee seeking benefits under FECA³ 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 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.⁴ The medical evidence required to establish a causal relationship between a claimed period of disability and an employment injury is rationalized medical opinion evidence. 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 compensable employment factors. The

³ 5 U.S.C. § 8101 *et seq.*

⁴ *See Elaine Pendleton*, 40 ECAB 1143 (1989); *see also J.L.*, Docket No. 09-2372 (issued July 2, 2010).

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.⁵

ANALYSIS

The Board finds that appellant has not established that she has a TMJ disorder causally due to her accepted August 2, 2010 emotional condition injury. OWCP accepted that appellant sustained a single episode of acute reaction to stress on August 2, 2010. Appellant was allowed to transfer to the Anniston Post Office in December 2010 so that she would not have to interact with the coworker who threatened her.

Appellant thereafter submitted medical reports from her treating physician, Dr. Archibald, a psychiatrist, who related that appellant had informed him in September 2011 that she had experienced TMJ symptoms since April 2011. Dr. Archibald diagnosed appellant with TMJ which he concluded was due to stress she experienced at the employing establishment. The Board finds that Dr. Archibald's reports regarding appellant's TMJ disorder are of limited probative value. The Board notes that Dr. Archibald did not provide any physical examination findings to support a diagnosis of TMJ disorder. His diagnosis appears to be based upon appellant's own recitation of symptoms, rather than upon physical examination or diagnostic testing. Furthermore, while he related appellant's condition to work stress, Dr. Archibald did not in fact relate the diagnosis to continued stress from the accepted August 2, 2010 incident. Rather he related that appellant felt stressed working at the Anniston Post Office, with new coworkers and during the holiday period. He offered no rationalized medical opinion explaining how the threat appellant experienced on August 2, 2010 could have caused a TMJ disorder in 2011 and 2012, when appellant was no longer working with the threatening coworker.

Appellant was also evaluated by Dr. Patrick, a Board-certified oral and maxillofacial surgeon, who did relate examination findings and diagnosed appellant with TMJ dysfunction, but like Dr. Archibald, Dr. Patrick did not explain with medical rationale, how appellant's single episode threat on August 2, 2010 would have caused the development of this disorder, after appellant no longer worked with the perpetrator of the threat. While he did note that appellant's problems began because of an incident at work which caused her severe stress and associated grinding and clenching of her jaw, he did not relate a complete factual history of appellant's claim. Dr. Patrick's opinion did not relate an understanding that appellant no longer worked with the perpetrator, and that appellant had related different stressors, such as working in a new environment and working through the holiday season as the current causes of her stress. The opinion of a 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.⁶ As Dr. Patrick's report was not based upon a complete factual and medical background, and offered no supporting medical rationale, it is of limited probative value.

⁵ See *Donna Faye Cardwell*, 41 ECAB 730 (1990).

⁶ See *Roy L. Humphrey*, 57 ECAB 238 (2005).

OWCP's second opinion physician, Dr. Colin, on the other hand, reported that appellant did not in fact suffer from a TMJ condition. He provided physical examination findings of normal range of motion and no abnormal findings in the temporomandibular joint. Dr. Colin explained that, while appellant suffers from stress-related muscle spasms and clenching, she did not have a true TMJ disorder. He concluded that appellant's subjective complaints significantly outweighed her objective findings. Dr. Colin declined to offer an opinion as to whether appellant had an acute reaction to stress as this was outside his area of expertise.

The Board concludes that the medical evidence of record does not establish that appellant has a TMJ disorder which is causally related to her accepted August 2, 2010 single episode emotional condition event.

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 OWCP properly denied appellant's claim for compensation for the period June 16 to August 31, 2012 due to TMJ.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated October 18, 2012 is affirmed.

Issued: May 9, 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