

ISSUE

The issue is whether appellant sustained an injury in the performance of duty on December 5, 2012, as alleged.

FACTUAL HISTORY

On December 6, 2012 appellant, a 63-year-old human resources assistant, filed a traumatic injury claim alleging that she broke two bones in her right foot on December 5, 2012 while attending a training program. She could not see the sidewalk because it was dark as there was no moonlight nor any lights. When the sidewalk turned 90 degrees, appellant fell into a ditch lined with boulders.

A family physician whose signature is illegible³ completed an attending physician's form report on December 6, 2012. She reported that appellant turned her ankle while walking on a poorly lit sidewalk the previous night. X-rays showed multiple nondisplaced fractures of the proximal metatarsal. The physician indicated with an affirmative mark that the condition found was caused or aggravated by the employment activity.

In a decision dated March 4, 2013, OWCP denied appellant's traumatic injury claim. It found that the incident occurred as alleged and that a medical condition was diagnosed; however, she did not submit a physician's detailed report providing an opinion, supported by a medical explanation, on how the work incident caused the claimed injury. "Your physician must explain how the work event(s) caused or affected your condition, based upon an accurate factual and medical history, citing objective findings in support of the opinion."

LEGAL PRECEDENT

FECA provides compensation for the disability of an employee resulting from personal injury sustained while in the performance of duty.⁴ 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, he or she 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.⁵

Causal relationship is a medical issue,⁶ and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence that includes a physician's rationalized opinion on whether there is a causal relationship between the claimant's diagnosed condition and the established incident or factor of employment. The opinion of the physician must be based on a complete

³ Appellant identified the physician as Dr. Kristen R. Burkholder, a Board-certified family physician.

⁴ 5 U.S.C. § 8102(a).

⁵ *John J. Carlone*, 41 ECAB 354 (1989).

⁶ *Mary J. Briggs*, 37 ECAB 578 (1986).

factual and medical background of the claimant,⁷ must be one of reasonable medical certainty,⁸ and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the established incident or factor of employment.⁹

ANALYSIS

OWCP accepts that the incident occurred as alleged. Appellant has therefore met her burden to establish that she experienced a specific incident occurring at the time, place and in the manner alleged. The question that remains is whether this incident caused an injury.

The question of causal relationship is a medical issue that usually requires reasoned medical opinion for resolution.¹⁰ As the condition reported is not a minor one that can be identified visually on inspection by a lay person, such as a burn or laceration or insect sting or animal bite, and because the details of the incident are not clearly established, rationalized medical opinion evidence supporting causal relationship is required in this case.¹¹

The only medical evidence of record that addressed the issue of causal relationship was the December 6, 2012 attending physician's form report. The report stated that appellant had turned her ankle, something she did not previously mention. The report did not describe how the sidewalk turned 90 degrees or how she fell into a ditch lined with boulders. The history of injury presented by this report was therefore not as complete and accurate as it should have been. Medical conclusions based on inaccurate or incomplete histories are of little probative value.¹²

The attending physician's form report indicated with an affirmative mark that appellant metatarsal fracture was caused by the employment activity, but it provided no medical rationale to support that opinion. The Board has held that when a physician's opinion on causal relationship consists only of checking "yes" to a form question, that opinion has little probative value and is insufficient to establish causal relationship.¹³ Appellant's burden includes the necessity of furnishing an affirmative opinion from a physician who supports her conclusion with sound medical reasoning. As the physician did no more than check "yes" to a form question, her opinion on causal relationship is of little probative value and is insufficient to discharge appellant's burden of proof.

⁷ *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

⁸ *See Morris Scanlon*, 11 ECAB 384, 385 (1960).

⁹ *See William E. Enright*, 31 ECAB 426, 430 (1980).

¹⁰ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3 (July 2000).

¹¹ *Id.* at Chapter 2.805.3.d.

¹² *James A. Wyrick*, 31 ECAB 1805 (1980) (physician's report was entitled to little probative value because the history was both inaccurate and incomplete). *See generally Melvina Jackson*, 38 ECAB 443, 450 (1987) (addressing factors that bear on the probative value of medical opinions).

¹³ *E.g., Lillian M. Jones*, 34 ECAB 379 (1982).

Because the medical opinion evidence does not establish the critical element of causal relationship,¹⁴ the Board finds that appellant has not met her burden of proof to establish that she sustained a traumatic injury in the performance of duty. The Board will therefore affirm the OWCP's March 4, 2013 decision denying her traumatic injury claim.

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 of proof to establish that she sustained a traumatic injury in the performance of duty on December 5, 2012.

ORDER

IT IS HEREBY ORDERED THAT the March 4, 2013 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: April 15, 2014
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

¹⁴ The Board's review of a case is limited to the evidence in the case record that was before OWCP at the time of its final decision. Evidence not before OWCP will not be considered by the Board for the first time on appeal. 20 C.F.R. § 501.2(c)(1).