United States Department of Labor
Employees' Compensation Appeals Board

C.E., Appellant	)	
and	)	**Docket No. 14-710**
	)	**Issued: August 11, 2014**
DEPARTMENT OF VETERANS AFFAIRS, VETERANS HEALTH ADMINISTRATION, Canadaigua, NY, Employer	)	

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

Case Submitted on the Record

DECISION AND ORDER

Before:
PATRICIA HOWARD FITZGERALD, Acting Chief Judge
MICHAEL E. GROOM, Alternate Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On February 12, 2014 appellant filed a timely appeal from a December 11, 2013 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act[1] (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

ISSUE

The issue is whether appellant met her burden of proof to establish that she sustained a traumatic injury in the performance of duty on September 23, 2013.

FACTUAL HISTORY

On October 1, 2013 appellant, then a 49-year-old nurse, filed a traumatic injury claim alleging that on September 23, 2013 she sustained a right knee strain while performing chest

[1] 5 U.S.C. § 8101 *et seq.*

compressions at work. She stopped work on September 30, 2013 and returned on October 1, 2013.

A September 25, 2013 x-ray was obtained of the right knee and great toe. Dr. Robert J. Lorenzetti, a Board-certified diagnostic radiologist, stated that it revealed no significant findings of the knee and a slight degenerative change in the first metatarsophalangeal joint of the great toe and a tiny heel spur. OWCP received a September 23, 2013 note from a nurse who stated that appellant was doing chest compressions and, when asked to switch positions, she felt a pull in the right knee. Also received was an October 1, 2013 report from a physician's assistant.

In an October 2, 2013 report, Dr. James B. Mark, a Board-certified orthopedic surgeon, diagnosed dislocation of the right knee and tear of the medial cartilage or meniscus curren. He opined that the findings were consistent with the history of injury and requested authorization for a right knee arthroscopy. Dr. Mark also noted that appellant had a 30 percent loss of use of the right lower extremity.

An October 19, 2013 magnetic resonance imaging (MRI) scan was reviewed by Dr. Scott Mooney, a Board-certified diagnostic radiologist, who noted that appellant had a twisting injury at work a week earlier with medial right knee pain. He determined that the anterior and posterior cruciate ligaments were intact as were the medial and lateral collateral ligaments, the visualized portions of the quadriceps tendon and the patellar region. Dr. Mooney found mild mucoid degeneration of the anterior horn of the lateral meniscus without a surfacing tear, mild mucoid degeneration of the posterior horn of the medial meniscus and a radial-type tear involving the body of the medial meniscus. There was a large region of full thickness cartilage loss involving the medial patellar facet and patellar apex, extending into the lateral patellar facet with osteochondral edema and cyst formation. A subchondral cyst formation was noted with the lateral portion of the trochlear groove. There was no focal cartilage defect identified within the lateral compartment. Dr. Mooney found trace joint effusion and a tiny Baker's cyst. He diagnosed radial-type tear involving the body of the medial meniscus, mucoid degeneration of the posterior horn of the medial meniscus and anterior horn of the lateral meniscus without additional tears identified and a large region of full thickness cartilage loss involving the medial patellar facet, extending into the patellar apex and lateral patellar facet.

In an October 23, 2013 report, Dr. Mark noted that appellant had persistent right knee pain and discomfort. He examined her and found medial joint line tenderness, positive McMurray's test and no instability mild effusion. Dr. Mark diagnosed a dislocation of the right knee and tear of the medial cartilage of meniscus curren. He indicated that appellant wished to proceed with an arthroscopic procedure.

In a letter dated November 8, 2013, OWCP noted that appellant's claim initially appeared to be a minor injury that resulted in minimal or no lost time from work and the claim was administratively handled to allow medical payments. However, her claim was now being reopened for adjudication because she has requested authorization for surgery. OWCP informed appellant of the type of medical evidence needed to support her claim.

OWCP received treatment notes dated September 25 and October 1, 2013 from a physician's assistant.

By decision dated December 11, 2013, OWCP denied appellant's claim. It found that the September 23, 2013 incident occurred as alleged. However, the medical evidence was not sufficient to support that her right knee condition was caused by the work incident.

LEGAL PRECEDENT

An employee seeking benefits under FECA[2] 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[3] and that an injury was sustained in the performance of duty.[4] These are the essential elements of each compensation claim, regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.[5]

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it first must be determined whether the fact of injury has been established. There are two components involved in establishing the 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.[6] In some traumatic injury cases, this component can be established by an employee's uncontroverted statement on the Form CA-1.[7] Second, the employee must submit sufficient evidence, generally only in the form of medical evidence, to establish that the employment incident caused a personal injury.[8]

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.[9]

ANALYSIS

On September 23, 2013 appellant was performing chest compressions. The evidence supports that the claimed incident occurred. Therefore, the Board finds that the first component of fact of injury is established; the claimed incident -- that appellant was performing chest compressions in the performance of duty. However, the medical evidence is insufficient to

[2] 5 U.S.C. §§ 8101-8193.

[3] *Joe D. Cameron*, 41 ECAB 153 (1989).

[4] *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

[5] *Delores C. Ellyett*, 41 ECAB 992 (1990).

[6] *Julie B. Hawkins*, 38 ECAB 393, 396 (1987); *see* Federal (FECA) Procedure Manual, Part 2 -- Claims, *Fact of Injury*, Chapter 2.803.2a (June 1995).

[7] *John J. Carlone*, 41 ECAB 354 (1989).

[8] *See id*. For a definition of the term "traumatic injury," see 20 C.F.R. § 10.5(ee).

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

establish that the employment incident caused her right knee injury. The medical reports of record do not establish that performing chest compressions at work caused injury on September 23, 2013. The medical evidence provides insufficient explanation of how the specific employment incident on September 23, 2013 caused or contributed to her diagnosed condition.[10]

In an October 2, 2013 report, Dr. Mark diagnosed dislocation of the right knee and tear of the medial cartilage or meniscus curren. He opined that the findings were consistent with the history of injury and requested authorization for a right knee arthroscopy. Dr. Mark, however, did not provide adequate medical rationale on causal relationship other than noting that the findings were consistent with the history of injury. He did not specifically address the history of injury or explain the relationship between appellant's diagnosed conditions and her employment activities on September 23, 2013. Dr. Mark did not explain the reasons why the incident on September 23, 2013 would cause or contribute to the diagnosed conditions. The Board has long held that medical opinions not containing rationale on causal relation are entitled to little probative value and are generally insufficient to meet appellant's burden of proof.[11] Without any reasoning to support the conclusion that the findings were consistent with the history of injury, his reports are insufficient to meet appellant's burden of proof.[12] This lack of medical rationale was not cured by his October 22, 2013 report. Medical evidence that does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship.[13]

In an October 19, 2013 report, Dr. Mooney noted that appellant had sustained a twisting injury at work a week earlier and had medial right knee pain. He reviewed an MRI scan and offered diagnoses, but did not provide a medical opinion on causal relationship. Dr. Mooney did not explain how the September 23, 2013 work incident caused or aggravated any specific diagnosed right knee condition. This is important as he noted significant degeneration in appellant's right knee.

Appellant submitted other medical and diagnostic test reports which merely reported findings and did not provide an opinion regarding the cause of her condition. Consequently, these reports are insufficient to establish the claim. The record also contains several reports from nurses and a physician's assistant. Health care providers such as nurses, acupuncturists, physician's assistants and physical therapists are not physicians under FECA. Thus, their opinions on causal relationship do not constitute rationalized medical opinions and have no weight or probative value.[14] The medical reports submitted by appellant do not sufficiently address how the September 23, 2013 work incident caused or aggravated her right knee condition.

[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] *Carolyn F. Allen*, 47 ECAB 240 (1995).

[12] *See George Randolph Taylor*, *supra* note 10.

[13] *S.E.*, Docket No. 08-2214 (issued May 6, 2009).

[14] *Jane A. White*, 34 ECAB 515, 518 (1983). *See* 5 U.S.C. § 8101(2).

On appeal, appellant argued that as a result of her injury she suffered from debilitating pain and lack of mobility. The Board notes that, while the employment incident has been accepted, the medical evidence is insufficient to establish that her condition is employment related. Appellant further asserted that she was healthy prior to the work incident. However, neither the mere fact that a disease or condition manifests itself during a period of employment nor the belief that the disease or condition was caused or aggravated by employment factors or incidents is sufficient to establish causal relationship.[15]

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 in establishing that she sustained a traumatic injury in the performance of duty on September 23, 2013.

ORDER

IT IS HEREBY ORDERED THAT the December 11, 2013 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: August 11, 2014
Washington, DC

Patricia Howard Fitzgerald, Acting Chief Judge
Employees' Compensation Appeals Board

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

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

[15] *Phillip L. Barnes*, 55 ECAB 426 (2004).