



right knee. She alleged that while leaving work she twisted her left leg on a floor mat and fell to her knees as she was walking to her car. Appellant did not stop work. The employing establishment advised that she was in the performance of duty when the incident occurred.

On July 24, 2013 appellant telephoned OWCP about the status of her claim. OWCP indicated that her case had not been closed and that it would pay medical treatment up to \$1,500.00. On August 12, 2013 appellant requested authorization for physical therapy.

By letter dated February 18, 2014, OWCP notified appellant that evidence was insufficient to establish her claim. Appellant was advised to submit a medical report from her attending physician that included a diagnosis, history of the injury, and an opinion regarding causal relationship.

In a September 9, 2013 report, Dr. Alan Lo, Board-certified in emergency medicine, diagnosed back pain. He stated that appellant's low back pain was radiating down the posterior portion of her left leg. Dr. Lo further advised that on physical examination he found mild tenderness to the left paraspinal lumbar as well as tenderness over the sciatic notch.

In a March 5, 2014 response to an OWCP questionnaire, appellant stated that as she was leaving work and walking to her car in the garage she twisted her left foot on a floor mat and landed on both knees. She claimed that she got up and called her supervisor to report the incident. Appellant noted that she felt back pain, pain in her left leg and pain in both knees.

By decision dated April 3, 2014, OWCP denied appellant's claim because evidence was insufficient to establish that she had a diagnosed condition in connection with the claimed event.

Appellant subsequently submitted additional medical evidence. In a July 24, 2013 report, Dr. Melissa A. Yadao, a Board-certified orthopedic surgeon, stated that appellant complained of knee pain and foot numbness. She stated that appellant fell in the parking lot at work on June 28, 2013 and went to the occupational health clinic the next day. Dr. Yadao noted that on July 9, 2013 appellant began to feel radiating leg pain. She advised that appellant had a history of knee arthritis, but related that appellant advised that her current pain was different. On physical examination, appellant had crepitus in both knees. She had decreased lumbosacral range of motion, positive straight leg raising at 30 degrees and a positive sciatic tension test. Dr. Yadao diagnosed sacroiliitis and sciatica. She advised that a lumbar spine x-ray revealed normal alignment, normal disc space, and no bone abnormality. Dr. Yadao referred appellant for physical therapy.

In an August 20, 2013 report, Dr. Daniel Hampton, a Board-certified orthopedic surgeon and associate of Dr. Yadao, noted that appellant was experiencing tenderness of the paraspinal muscles on the left side and decreased range of motion. He diagnosed sacroiliitis and sciatica. In an October 9, 2013 report, Dr. Yadao noted that appellant's back pain was improving but she still had pain upon standing and sitting. She also noted that appellant was experiencing pain and numbness in the left leg. In a November 6, 2013 report, Dr. Yadao advised that appellant complained of leg pain, and soreness, but related that her back felt great. On examination, she noted that appellant walked with a normal gait and straight leg testing was negative. Dr. Yadao also noted that appellant was not experiencing lumbar, gluteal, or sacroiliac joint tenderness.

She diagnosed sciatica and stated that no further treatment was needed. Appellant submitted several physical therapy reports from August 9 through October 30, 2013.

On April 28, 2014 appellant requested reconsideration. In support of her request, she submitted an April 24, 2014 report from Dr. Yadao who stated that she treated appellant for injuries related to a work accident.<sup>2</sup> Dr. Yadao noted that appellant related that she injured her left leg when she fell in the parking lot at work on June 28, 2013. She noted that appellant related to her that she twisted her left foot and fell on both knees. Dr. Yadao further noted that at her initial examination on July 24, 2013 appellant had moderate tenderness in the left buttock region with decreased range of motion, a positive sciatic tension test and straight leg raise. Appellant also had tenderness over the sacroiliac joint with a negative Gaenslans test. Dr. Yadao advised that a July 24, 2013 lumbar spine x-ray revealed normal osseous structures and alignment. She diagnosed sacroiliitis and sciatica. Dr. Yadao opined that the work incident directly caused appellant's injury because of the fall, twisting, and direct compression through her pelvis and sacrum as her knees hit the ground. She also opined that neither appellant's underlying rheumatoid arthritis nor knee arthritis appeared to be aggravated by the work-related accident.

By merit decision dated July 10, 2014, OWCP denied appellant's claim. It found that the medical evidence did not establish that her diagnosed conditions were causally related to the work incident. OWCP stated that it reviewed Dr. Yadao's July 24, October 9 and November 6, 2013 reports, Dr. Hampton's August 20, 2013 report, and multiple physical therapy reports submitted by appellant. It did not address Dr. Yadao's April 24, 2014 report.

### **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,<sup>3</sup> 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.<sup>4</sup> 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.<sup>5</sup>

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

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<sup>2</sup> OWCP received copies of this report on May 2 and 5, 2014.

<sup>3</sup> *J.P.*, 59 ECAB 178 (2007); *Joseph M. Whelan*, 20 ECAB 55, 57 (1968).

<sup>4</sup> *R.C.*, 59 ECAB 427 (2008).

<sup>5</sup> *Id.*; *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

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.<sup>6</sup>

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.<sup>7</sup>

### ANALYSIS

The Board finds that the case is not in posture for decision.

On April 3, 2014 OWCP denied appellant's claim because the medical evidence was insufficient. Appellant requested reconsideration and submitted several other medical reports, including Dr. Yadao's April 24, 2014 report. By decision dated July 10, 2014, OWCP denied her claim because the medical evidence did not establish causal relationship between the diagnosed conditions and the accepted work incident. In its decision, it listed certain medical reports that it reviewed but it did not indicate that it considered Dr. Yadao's April 24, 2014 report which was first received by OWCP on May 2, 2014. In her April 24, 2014 report, Dr. Yadao noted diagnoses and offered her opinion relative to the June 28, 2013 work incident and the diagnosed conditions. However, this report was not considered by OWCP.

In the case of *William A. Couch*,<sup>8</sup> OWCP did not review medical evidence received four days prior to the issuance of its final decision denying the claim. The Board set aside the decision and remanded the case for OWCP to consider this evidence fully. The Board explained that its jurisdiction of a case is limited to reviewing the evidence that was before OWCP at the time of its final decision,<sup>9</sup> and that Board decisions are final as to the subject matter appealed.<sup>10</sup> Accordingly, it was critical that OWCP review all evidence relevant to that subject matter and received by OWCP prior to the issuance of its final decision.

In accordance with the principle set forth in *Couch*, the Board finds that the case is not in posture for decision. The Board will set aside OWCP's July 10, 2014 decision denying appellant's claim and will remand the case to OWCP for consideration of the evidence and an appropriate final decision, with full review rights, on her traumatic injury claim.

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<sup>6</sup> *T.H.*, 59 ECAB 388 (2008).

<sup>7</sup> *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 345 (1989).

<sup>8</sup> 41 ECAB 548 (1990).

<sup>9</sup> *See* 20 C.F.R. § 501.2(c).

<sup>10</sup> *Id.* at § 501.6(c).

**CONCLUSION**

The Board finds that the case is not in posture for decision.

**ORDER**

**IT IS HEREBY ORDERED THAT** the July 10, 2014 decision of the Office of Workers' Compensation Programs is set aside, and the case is remanded for further action consistent with this decision of the Board.

Issued: December 19, 2014  
Washington, DC

Christopher J. Godfrey, Chief Judge  
Employees' Compensation Appeals Board

Patricia Howard Fitzgerald, Judge  
Employees' Compensation Appeals Board

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