

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

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**E.A., Appellant**

**and**

**U.S. POSTAL SERVICE, POST OFFICE,  
Louisville, KY, Employer**

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**Docket No. 14-1871  
Issued: December 11, 2014**

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

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

COLLEEN DUFFY KIKO, Judge  
ALEC J. KOROMILAS, Alternate Judge  
JAMES A. HAYNES, Alternate Judge

**JURISDICTION**

On August 25, 2014 appellant filed a timely appeal from April 11 and July 21, 2014 merit decisions of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act<sup>1</sup> (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 a traumatic injury in the performance of duty on February 15, 2014.

**FACTUAL HISTORY**

On February 24, 2014 appellant, then a 57-year-old city carrier, filed a traumatic injury claim (Form CA-1) alleging that on February 15, 2014 she sustained an injury when she slipped on ice and fell to the ground causing her to strike the back of her head and right elbow. She

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<sup>1</sup> 5 U.S.C. § 8101 *et seq.*

notified her supervisor on February 24, 2014. Appellant's supervisor noted on the claim form that the alleged injury occurred in the performance of duty.

An OWCP Form CA-16, authorization for examination, dated February 21, 2014, indicated that appellant was authorized to obtain office and/or hospital treatment as medically necessary for her February 15, 2014 injury.

By letter dated February 26, 2014, the employing establishment controverted the claim.

By letter dated February 28, 2014, OWCP informed appellant that the evidence of record was insufficient to support her claim. Appellant was advised of the necessary medical and factual evidence needed and asked to respond within 30 days.

By decision dated April 11, 2014, OWCP denied appellant's claim finding the evidence insufficient to establish an injury. Appellant had failed to submit any medical evidence containing a medical diagnosis in connection with the accepted February 15, 2014 employment incident.

On May 3, 2014 appellant requested reconsideration. In support of her claim, she submitted emergency room records from Saint Joseph London Hospital.

In a February 15, 2014 diagnostic report, Dr. Richard Scalf, a Board-certified diagnostic radiologist, reported that an x-ray of the right elbow revealed no acute bony abnormality. He reported that a computerized tomography (CT) scan of the head revealed no acute intracranial findings. A small posterior right parietal scalp hematoma was identified in the clinical findings.

Dr. John Sullivan, a Board-certified diagnostic radiologist, reported that a February 15, 2014 x-ray of the facial bones revealed no acute fracture.

An emergency room report of the same date reported appellant's fall on an icy sidewalk when delivering mail, causing her to strike the back of her head and left elbow. Reviews of diagnostic reports were normal and were diagnosed with a minor head injury.

By decision dated July 21, 2014, OWCP affirmed the denial of her claim as there was no medical diagnosis.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA 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 filed within the applicable time limitation; that an injury was sustained while in the performance of duty as alleged and that any disability or specific condition for which compensation is claimed is causally related to the

employment injury.<sup>2</sup> These are the essential elements of every compensation claim regardless of whether the claim is predicated on a traumatic injury or occupational disease.<sup>3</sup>

In order to determine whether an employee actually sustained an injury in the performance of duty, OWCP begins with an analysis of whether fact of injury has been established. Generally, fact of injury consists of two components which must be considered in conjunction with one another. The first component to be established is that the employee actually experienced the employment incident which is alleged to have occurred.<sup>4</sup> The second component is whether the employment incident caused a personal injury and generally can be established only by medical evidence.

To establish that an injury was sustained in the performance of duty in a claim for occupational disease, an employee must submit: (1) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; (2) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; and (3) medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the employee.<sup>5</sup>

To establish a causal relationship between the condition, as well as any attendant disability claimed and the employment event or incident, the employee must submit rationalized medical opinion evidence based on a complete factual and medical background, supporting such a causal relationship.<sup>6</sup> The opinion of the physician 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. This medical opinion must include an accurate history of the employee's employment injury and must explain how the condition is related to the injury. The weight of medical evidence is determined by its reliability, its probative value, its convincing quality, the care of analysis manifested, and the medical rationale expressed in support of the physician's opinion.<sup>7</sup>

### ANALYSIS

OWCP accepted that the February 15, 2014 incident occurred as alleged. It denied appellant's claim because it lacked sufficient medical evidence to establish a diagnosed condition medically related to the February 15, 2014 employment incident. The Board finds that she failed

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<sup>2</sup> *Gary J. Watling*, 52 ECAB 278 (2001); *Elaine Pendleton*, 40 ECAB 1143, 1154 (1989).

<sup>3</sup> *Michael E. Smith*, 50 ECAB 313 (1999).

<sup>4</sup> *Elaine Pendleton*, 40 ECAB 1143 (1989).

<sup>5</sup> *See Roy L. Humphrey*, 57 ECAB 238, 241 (2005); *Ruby I. Fish*, 46 ECAB 276, 279 (1994).

<sup>6</sup> *See* 20 C.F.R. § 10.110(a); *John M. Tornello*, 35 ECAB 234 (1983).

<sup>7</sup> *James Mack*, 43 ECAB 321 (1991).

to meet his burden of proof to establish an injury causally related to the February 15, 2014 employment incident.<sup>8</sup>

In a February 15, 2014 diagnostic report, Dr. Scalf reported that a CT scan of the head revealed no acute intracranial findings. A small posterior right parietal scalp hematoma was identified in the clinical findings. Dr. Scalf's diagnostic report fails to establish a firm medical diagnosis. While he provided imaging results from the diagnostic studies, his report failed to establish a diagnosis or mention the February 15, 2014 employment incident which could be connected to the diagnostic findings.<sup>9</sup>

The remaining diagnostic reports are also insufficient to establish appellant's claim. Dr. Scalf reported that the February 15, 2014 x-ray of the right elbow revealed no acute bony abnormality. In another February 15, 2014 diagnostic report, Dr. Sullivan reported that an x-ray of the facial bones revealed no acute fracture. Appellant's diagnostic tests revealed no abnormalities to establish a diagnosed medical condition.<sup>10</sup>

While the February 15, 2014 emergency room report identified the employment incident, the physician failed to provide a firm medical diagnosis related to the employment incident. The Board notes that "minor head injury" is a general term and does not establish a specific medical condition.<sup>11</sup>

In the instant case, the record is without rationalized medical evidence establishing a diagnosed medical condition causally related to the accepted February 15, 2014 employment incident. OWCP advised appellant of the type of medical evidence required to establish her claim; however, she failed to submit such evidence. The Board has held that the mere fact that a condition manifests itself during a period of employment does not raise an inference of causal relation.<sup>12</sup> An award of compensation may not be based on surmise, conjecture, speculation or on the employee's own belief of causal relation.<sup>13</sup>

The Board notes, however, that where an employing establishment properly executes a Form CA-16, authorizing medical treatment as a result of an employee's claim for an employment-related injury, the Form CA-16 creates a contractual obligation, which does not involve the employee directly, to pay for the cost of the examination or treatment regardless of the action taken on the claim.<sup>14</sup> The period for which treatment is authorized by a Form CA-16 is limited to 60 days from the date of issuance, unless terminated earlier by OWCP.<sup>15</sup> Although

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<sup>8</sup> See *Robert Broome*, 55 ECAB 339 (2004).

<sup>9</sup> *C.B.*, Docket No. 09-2027 (issued May 12, 2010); *S.E.*, Docket No. 08-2214 (issued May 6, 2009).

<sup>10</sup> *G.S.*, Docket No. 13-1731 (issued December 3, 2013); *Ceferino L. Gonzales*, 32 ECAB 1591 (1981).

<sup>11</sup> *T.L.*, Docket No. 11-1668 (issued February 10, 2012).

<sup>12</sup> *Daniel O. Vasquez*, 57 ECAB 559 (2006).

<sup>13</sup> *D.D.*, 57 ECAB 734 (2006).

<sup>14</sup> See *Tracy P. Spillane*, 54 ECAB 608 (2003).

<sup>15</sup> See 20 C.F.R. § 10.300(c).

OWCP adjudicated appellant's claim of injury, it did not address the issue of reimbursement pursuant to this Form CA-16. The record is silent as to whether OWCP paid for the cost of appellant's examination or treatment for the period noted on the form. Upon return of the record OWCP should review this issue.

**CONCLUSION**

The Board finds that appellant failed to meet her burden of proof to establish a traumatic injury on February 15, 2014 in the performance of duty.

**ORDER**

**IT IS HEREBY ORDERED THAT** the July 21 and April 11, 2014 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: December 11, 2014  
Washington, DC

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

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

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