

Vaiana, an internist, stating that appellant may be able to return to work on June 10, 2013. The record also contains a CA-16 (authorization for examination and/or treatment) signed by appellant's supervisor.³

By letter dated June 20, 2013, OWCP requested that appellant submit additional factual and medical evidence within 30 days. On July 22, 2013 appellant submitted a statement that she was walking through the door to the lobby when ceiling tiles came down and hit her head, neck and left side of shoulder. She stated that an ambulance was called but she declined to go to the emergency room. Appellant submitted a July 15, 2013 magnetic resonance imaging scan of the cervical spine, with a diagnosis of multilevel disc bulges, most notably at C4-5 and C6-7.

In a form report (part b of the CA-16 form) dated July 2, 2013, Dr. Vaiana provided a history of neck and shoulder pain, with a diagnosis of a cervical condition.⁴ No response was provided to a question as to whether the condition was caused or aggravated by employment.

By decision dated July 26, 2013, OWCP denied the claim for compensation. It found that the medical evidence was insufficient to establish the claim. The decision was addressed to appellant's address of record.

On August 13, 2013 appellant submitted a form report from Dr. Vaiana dated July 16, 2013. Dr. Vaiana did not provide a history of injury or a diagnosis. He indicated that the date "symptoms first appeared or accident happened" was May 22, 2013 and he checked a box "yes" that the condition was related to employment.

A memorandum of telephone call dated August 22, 2013 indicated that appellant reported that she had not received a copy of the final decision. By decision dated August 23, 2013, OWCP issued a decision identical to the July 26, 2013 decision.

LEGAL PRECEDENT

FECA provides for the payment of compensation for "the disability or death of an employee resulting from personal injury sustained while in the performance of duty."⁵ The phrase "sustained while in the performance of duty" in FECA is regarded as the equivalent of the commonly found requisite in workers' compensation law of "arising out of and in the course of employment."⁶ An employee seeking benefits under FECA has the burden of establishing that he or she sustained an injury while in the performance of duty.⁷ 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

³ The form does not include a response under 6(b) as to the extent of the authorization.

⁴ The form is difficult to read and the diagnosis is not entirely legible.

⁵ 5 U.S.C. § 8102(a).

⁶ *Valerie C. Boward*, 50 ECAB 126 (1998).

⁷ *Melinda C. Epperly*, 45 ECAB 196, 198 (1993).

which is alleged to have occurred. The second component is whether the employment incident caused a personal injury and generally this can be established only by medical evidence.⁸

OWCP's procedures recognize that a claim may be accepted without a medical report when the condition is a minor one which can be identified on visual inspection.⁹ In clear-cut traumatic injury claims, such as a fall resulting in a broken arm, a physician's affirmative statement is sufficient and no rationalized opinion on causal relationship is needed. In all other traumatic injury claims, a rationalized medical opinion supporting causal relationship is required.¹⁰

Rationalized medical opinion evidence is medical evidence based on a complete factual and medical background, of reasonable medical certainty and supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant. The weight of medical evidence is determined by its reliability, its probative value, its convincing quality, the care of the analysis manifested and the medical rationale expressed in support of the physician's opinion.¹¹

ANALYSIS

In the present case, OWCP issued a July 26, 2013 decision denying the claim for compensation. The decision contained appellant's address of record and there was no evidence that it was improperly issued. The Board has held that, in the absence of evidence to the contrary, it is presumed that a notice mailed to an addressee in the ordinary course of business was received by the addressee.¹² Appellant asserted that she had not received the decision and OWCP reissued a decision dated August 23, 2013 that restated the findings of the July 26, 2013 decision. As the Board did not take jurisdiction over the case until August 23, 2013, the Board will review both decisions and all the evidence that was before OWCP at the time of the August 23, 2013 decision.

The record indicates that OWCP accepted that the employment incident occurred on May 22, 2013 as alleged and appellant was struck by ceiling tiles. The record does not contain sufficient medical evidence to establish a diagnosed injury casually related to the employment incident. Dr. Vaiana did not provide a history of the employment incident or otherwise provide a complete and accurate background. On the issue of causal relationship between a cervical condition and employment, he did not provide a rationalized medical opinion. The only reference to an employment-related injury is a box checked "yes" in a July 16, 2013 form report. The checking of a box "yes" in a form report, without additional explanation or rationale, is not sufficient to establish causal relationship.¹³ In this case, the July 16, 2013 report did not provide a diagnosis or any medical rationale on the issue presented.

⁸ See *John J. Carlone*, 41 ECAB 354, 357 (1989).

⁹ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3 (January 2013).

¹⁰ *Id.*

¹¹ *Jennifer Atkerson*, 55 ECAB 317, 319 (2004).

¹² See *Larry L. Hill*, 42 ECAB 596, 600 (1991).

¹³ See *Barbara J. Williams*, 40 ECAB 649, 656 (1989).

The Board finds that the medical evidence of record is not sufficient to establish the claim. There is no medical report with a rationalized medical opinion, based on a complete background, on causal relationship between a diagnosed condition and the May 22, 2013 employment incident.

On appeal, appellant states that she never received any documentation denying her claim. As noted above, the July 26, 2013 decision did contain her address of record and the Board has reviewed all evidence through the date of the reissued decision dated August 23, 2013. For the reasons indicated, appellant had not met her burden of proof to establish her claim. She 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 had not met her burden of proof to establish an injury in the performance of duty on May 22, 2013.

ORDER

IT IS HEREBY ORDERED THAT the decisions of the Office of Workers' Compensation Programs dated August 23 and July 26, 2013 are affirmed.

Issued: February 21, 2014
Washington, DC

Richard J. Daschbach, Chief Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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