United States Department of Labor
Employees' Compensation Appeals Board

L.E., Appellant	)	
and	)	**Docket No. 14-684**
	)	**Issued: July 29, 2014**
U.S. POSTAL SERVICE, NANCY B. JEFFERSON STATION, Chicago, IL, 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 6, 2014 appellant filed a timely appeal from the January 9, 2014 merit decision of the Office of Workers' Compensation Programs denying her traumatic injury claim. 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 left foot injury on November 12, 2013 while in the performance of duty.

FACTUAL HISTORY

On November 19, 2013 appellant, then a 56-year-old city carrier assistant, filed a traumatic injury claim alleging a broken left toe when she repeatedly bumped her feet on stairs leading to mailboxes on November 12, 2013. She stopped work on November 14, 2013. In

[1] 5 U.S.C. § 8101 *et seq.*

letters dated November 13 and 14, 2013, appellant stated that her feet began to hurt at the end of her route on November 6, 2013. She soaked her feet at home after work. Appellant stated that she was able to return to work every morning with no pain until later in the day. On November 12, 2013 she experienced pain in her feet during the night. On November 13, 2013 appellant continued to suffer from pain in her feet and advised her supervisors about her decision to seek medical treatment.

A November 13, 2013 prescription contained an illegible signature and stated that appellant was seen in the emergency department of Provident Hospital of Cook County, Chicago, IL. She could return to work only after being cleared by podiatry.

An unsigned emergency department discharge summary also dated November 13, 2013 indicated that appellant had pain in both feet. Appellant was instructed to return if her condition worsened and to follow up with Dr. Winston Burke, an attending podiatrist, on November 18, 2013.

On November 14, 2013 the employing establishment issued appellant a completed Form CA-16, authorization for examination, to receive office and/or hospital treatment as medically necessary for the effects of her injury.

In a November 19, 2013 attending physician's form report (Form CA-20), Dr. Burke listed a history of the November 12, 2013 incident. He indicated with a checkmark that there was no evidence of a preexisting condition, disease or physical impairment. Dr. Burke indicated with an affirmative mark that appellant sustained an injury caused or aggravated by an employment activity. In an undated Form CA-20 and a November 21, 2013 Form CA-20, he listed a history of the November 12, 2013 incident. Dr. Burke indicated with an affirmative mark that there was evidence of a preexisting injury, disease or physical impairment. He diagnosed hallux valgus with bunion on the left, left dislocated second toe at the metatarsal phalangeal joint and hammertoe second left. Dr. Burke indicated with a checkmark that the diagnosed conditions were not caused or aggravated by an employment activity. He related that the diagnosed conditions were going to be surgically repaired on November 21, 2013. In a work capacity evaluation (Form OWCP-5c) dated November 19, 2013, Dr. Burke advised that appellant was unable to perform her usual job or work with restrictions. He stated that work restrictions would apply for 10 weeks from her surgical date.

By letters dated November 26, 2013, the employing establishment controverted appellant's claim, contending that she did not have any disability due to a traumatic injury or sustain an injury in the performance of duty. It noted that she started work in March 2013 and that it appeared she had preexisting bunions and hammertoes based on documentation from Dr. Burke. The employing establishment stated that his November 21, 2013 CA-20 form stated that there was evidence of a preexisting condition and that appellant's condition was not caused or aggravated by an employment activity.

By letter dated December 5, 2013, OWCP advised appellant that the evidence submitted was insufficient to establish her claim. It requested that she submit additional medical evidence, including a rationalized medical opinion from an attending physician which provided dates of examination and treatment, history and date of injury, a detailed description of findings, x-ray

and laboratory test results, diagnosis, clinical course of treatment together with an opinion supported by a medical explanation as to how the reported work incident caused or aggravated a medical condition.

Appellant resubmitted her November 13 and 14, 2013 letters and Dr. Burke's undated CA-20 form report and November 19, 2013 CA-20 and OWCP-5c forms.

In a January 9, 2014 decision, OWCP accepted that the November 12, 2013 incident occurred as alleged. It denied appellant's claim, however, finding that the medical evidence was insufficient to establish a left foot condition causally related to the accepted employment incident.

LEGAL PRECEDENT

An employee seeking benefits under FECA[2] has the burden of proof to establish the essential elements of his or her claim by the weight of the reliable, probative and substantial evidence[3] including that he or she sustained an injury in the performance of duty and that any specific condition or disability for work for which he or she claims compensation is causally related to that employment injury.[4]

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.[5] 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]

The second component is whether the employment incident caused a personal injury and generally can be established only by medical evidence.[7] The evidence required to establish causal relationship is rationalized medical opinion evidence, based upon complete factual and medical background, showing a causal relationship between the claimed condition and the identified factors.[8] The belief of the claimant that a condition was caused or aggravated by the employment is insufficient to establish a causal relationship.[9]

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[2] *Id*.

[3] *J.P.*, 59 ECAB 178 (2007); *Joseph M. Whelan*, 20 ECAB 55, 58 (1968).

[4] *G.T.*, 59 ECAB 447 (2008); *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

[5] *S.P.*, 59 ECAB 184 (2007); *Alvin V. Gadd*, 57 ECAB 172 (2005).

[6] *Bonnie A. Contreras*, 57 ECAB 364 (2006); *Edward C. Lawrence*, 19 ECAB 442 (1968).

[7] *John J. Carlone*, 41 ECAB 354 (1989); *see* 5 U.S.C. § 8101(5) (injury defined); 20 C.F.R. §§ 10.5(ee), 10.5(q) (traumatic injury and occupational disease defined, respectively).

[8] *Lourdes Harris*, 45 ECAB 545 (1994); *see Walter D. Morehead*, 31 ECAB 188 (1979).

[9] *Kathryn Haggerty*, 45 ECAB 383, 389 (1994).

ANALYSIS

OWCP accepted that on November 12, 2013 appellant bumped her feet on stairs while in the performance of duty. It found that the medical evidence failed to establish that she sustained a left foot injury as a result of the accepted incident. The Board finds that appellant failed to provide sufficient medical evidence to establish that she sustained a left foot injury causally related to the accepted November 12, 2013 employment incident.

The medical reports from Dr. Burke, an attending podiatrist, do not contain a sufficiently rationalized opinion explaining how appellant sustained a left foot injury causally related to the accepted employment incident. In his November 19, 2013 attending physician's CA-20 form report, Dr. Burke indicated with an affirmative mark that appellant sustained an injury caused or aggravated by the November 12, 2013 employment incident. He indicated with a checkmark that there was no evidence of a preexisting condition, disease or physical impairment. 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.[10] Appellant's burden includes the necessity of furnishing an affirmative opinion from a physician who supports her conclusion with sound medical reasoning.[11] As Dr. Burke did no more than check "yes" to a form question and failed to provide a diagnosis, his opinion on causal relationship is of diminished probative value. In Dr. Burke's undated and November 21, 2013 CA-20 form reports, he found that appellant's diagnosed hallux valgus with a bunion on the left, left dislocated second toe at the metatarsal phalangeal joint and hammertoe second left were not caused or aggravated by the November 12, 2013 employment incident. He indicated with an affirmative mark that there was evidence of a preexisting injury, disease or physical impairment, but did not explain why his opinion changed regarding this matter. Further, Dr. Burke did not offer any opinion addressing whether appellant's preexisting condition, disease or physical impairment was aggravated by the accepted employment incident. Medical evidence which does not offer any opinion regarding the cause of an employee's condition is of limited probative value.[12] In his November 19, 2013 Form OWCP-5c, Dr. Burke found that appellant was unable to perform her usual job or work eight hours a day with restrictions for 10 weeks from the date of her left foot surgery on November 19, 2013. His opinion, however, does not provide a diagnosis or an opinion addressing the cause of the reported condition and disability.[13]

The November 13, 2013 prescription which contained an illegible signature and unsigned emergency department discharge summary of the same date are insufficient to establish appellant's claim. A report that is unsigned or bears an illegible signature lacks proper identification and cannot be considered probative medical evidence.[14] The Board finds that there

[10] *See Frederick H. Coward, Jr.*, 41 ECAB 843 (1990); *Lillian M. Jones*, 34 ECAB 379 (1982).

[11] *Lillian M. Jones, id.*

[12] *A.D.*, 58 ECAB 149 (2006); *Jaja K. Asaramo*, 55 ECAB 200 (2004); *Michael E. Smith*, 50 ECAB 313 (1999).

[13] *Id.*

[14] *Thomas L. Agee*, 56 ECAB 465 (2005); *Richard F. Williams*, 55 ECAB 343 (2004).

is insufficient medical evidence to establish that she sustained a left foot injury causally related to the accepted November 12, 2013 employment incident.

The Board notes that the employing establishment properly executed a CA-16 form which authorized medical treatment as a result of the employee's claim for an employment-related injury. The CA-16 form 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.[15] The period for which treatment is authorized by a CA-16 form is limited to 60 days from the date of issuance, unless terminated earlier by OWCP.[16] On return of the record OWCP should adjudicate whether appellant's examination or treatment is reimbursable under the form.

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 left foot injury on November 12, 2013 while in the performance of duty.

[15] *See Tracy P. Spillane*, 54 ECAB 608 (2003).

[16] *See* 20 C.F.R. § 10.300(c).

ORDER

IT IS HEREBY ORDERED THAT the January 9, 2014 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: July 29, 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