

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

S.C., Appellant)

and)

U.S. POSTAL SERVICE, POST OFFICE,)
North Metro, GA, Employer)

**Docket No. 14-1026
Issued: November 4, 2014**

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

Case Submitted on the Record

DECISION AND ORDER

Before:

ALEC J. KOROMILAS, Alternate Judge
MICHAEL E. GROOM, Alternate Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On March 31, 2014 appellant filed a timely appeal from a March 18, 2014 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act¹ (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 his burden of proof to establish that he sustained an injury in the performance of duty on December 6, 2013.

FACTUAL HISTORY

On January 23, 2014 appellant, then a 60-year-old postal technician, filed a Form CA-1 traumatic injury claim alleging that on December 6, 2013 as he attempted to sit down, his chair rolled away, and he fell. When the paramedics came, his blood pressure was high. Appellant

¹ 5 U.S.C. § 8101 *et seq.*

was taken to a local hospital where he was treated. He noted that his physician told him not to return to work. Appellant stopped work on December 6, 2013 and did not return. OWCP received pay rate information and a position description.

In a December 10, 2013 report, Mandi Del Pozo, a certified physician's assistant, stated that appellant had a history of cardiovascular accident (CVA) with resulting cognitive impairment. She recommended that appellant not perform his current position.

By letter dated February 6, 2014, OWCP advised appellant that the evidence of record was insufficient to establish his claim. It afforded him 30 days to submit additional factual and medical evidence, noting that it had not received a diagnosis of a condition resulting from the December 6, 2013 event and that he had not claimed a specific injury sustained from this event.

In response to its developmental letter, appellant submitted several statements. On August 27, 2013 he stated that his prior stroke rendered him unable to perform the job offer. In a February 11, 2014 statement, appellant reiterated that he passed out on December 6, 2013 and was transported to the hospital where an emergency room physician advised that his blood pressure was at stroke level. He noted that his physician told him he was not capable of returning to work. In a December 15, 2013 statement, appellant indicated that on December 6, 2013 he was unable to get into his computer and went to the bathroom. When he came back to his work area, his head was spinning so he grabbed for his chair and it rolled away from him and he fell and blacked out. The next thing appellant remembered, the ambulance took him to the hospital. He was told by the emergency room physician that his blood pressure was high. In a March 3, 2014 statement, appellant stated that he sent in documentation from his physicians along with CA-7 forms.

A December 6, 2013 hospital discharge instructions noted that appellant was dizzy.

In a February 21, 2014 attending physician's report, Dr. Joseph Jellicorse, a Board-certified family practitioner, reported a history of stroke and dizziness on December 6, 2013. He also advised that appellant had cognitive impairment. In a February 11, 2014 report, Dr. Jellicorse stated that appellant's diagnoses include: hypertension, arthropathy, obesity, anxiety disorder and hyperlipidemia.

OWCP also received several Form CA-7, claims for compensation for the period commencing December 9, 2013. The record includes job offers dated August 26 and 27, 2013 and letters from the employing establishment controverting the claim.

By decision dated March 18, 2014, OWCP denied appellant's claim. It found that he did not claim a specific injury sustained from the December 6, 2013 event. Further, the medical evidence was not sufficient to establish that a medical condition was diagnosed in connection with the claimed event and/or work factors.

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 are causally related to the employment injury.² These are the essential elements of each and every compensation claim regardless of whether the claim is predicated on a traumatic injury or an occupational disease.³

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.⁴ The second component is whether the employment incident caused a personal injury and generally can be established only by medical evidence. An employee may establish that the employment incident occurred as alleged but fail to show that his or her condition relates to the employment incident.⁵

Whether an employee sustained an injury in the performance of duty requires the submission of rationalized medical opinion evidence providing a diagnosis or opinion as to causal relationship. Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on whether there is a causal relationship between the employee's diagnosed condition and the specified employment factors or incident. The opinion of the physician must be based on a complete factual and medical background of the employee, 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 employee.⁶

It is a well-settled principle of workers' compensation law and the Board has so held, that an injury resulting from an idiopathic fall -- where a personal, nonoccupational pathology causes an employee to collapse and suffer injury upon striking the immediate supporting surface and there is no intervention or contribution by any hazard or special condition of employment -- is not within the coverage of FECA.⁷

ANALYSIS

Appellant alleged that on December 6, 2013 he became dizzy and grabbed for his chair which rolled away. He fell down. OWCP denied the claim finding appellant did not establish a

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

³ *Michael E. Smith*, 50 ECAB 313 (1999).

⁴ *Elaine Pendleton*, *supra* note 2 at 1143.

⁵ *See Shirley A. Temple*, 48 ECAB 404, 407 (1997); *John J. Carlone*, 41 ECAB 354, 356-57 (1989).

⁶ *I.J.*, 59 ECAB 408, 415 (2008); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

⁷ *See Albert E. Hermann, Jr.*, 35 ECAB 167 (1983); *Stanley H. Dunihue, Jr.*, Docket No. 05-1418 (issued September 16, 2005).

specific injury from this incident, which OWCP accepted as alleged. The Board finds that he did not submit sufficient medical evidence from a physician to establish that a medical condition was diagnosed in connection with this incident.

Appellant submitted several reports from Dr. Jellicorse dated February 11 and 21, 2014. Dr. Jellicorse stated that appellant diagnoses include hypertension, arthropathy, obesity, anxiety disorder and hyperlipidemia; however, he did not offer any opinion as to whether any of the listed conditions were caused or aggravated by the December 6, 2013 incident. The Board has held that 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.⁸ While Dr. Jellicorse reported that appellant had a history of stroke and dizziness on December 6, 2013 which has cognitive impairment, he failed to provide a well-rationalized opinion on causal relationship. He was not clear as to whether appellant sustained a stroke that day or if he was referring to a prior stroke. Thus, the reports from Dr. Jellicorse do not support appellant's claim.

The December 6, 2013 hospital discharge instructions note that the reason for the visit was dizziness, but does not provide a firm medical diagnosis. This document is of little probative value. The December 10, 2013 report, which is signed by a certified physician's assistant, notes a history of CVA and cognitive impairments as a result of CVA. This document is of no value as expert medical opinion evidence because a physician assistant is not a physician as defined under FECA.⁹

The Board finds the medical evidence submitted by appellant is insufficient to establish an employment-related traumatic injury on December 6, 2013. The medical evidence fails to establish that appellant was diagnosed with a specific medical condition related to the December 6, 2013 employment incident. Appellant has not met his burden of proof to establish that he sustained an injury in the performance of duty. The Board will therefore affirm OWCP's March 18, 2014 decision.

CONCLUSION

The Board finds that appellant has not met his burden of proof to establish that he sustained an injury in the performance of duty on December 6, 2013.

⁸ *B.N.*, Docket No. 12-1394 (issued August 5, 2013).

⁹ 5 U.S.C. § 8101(2); *Richard E. Simpson*, 57 ECAB 668 (2006); *Vickey C. Randall*, 51 ECAB 357 (2000).

ORDER

IT IS HEREBY ORDERED THAT the March 18, 2014 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: November 4, 2014
Washington, DC

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

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

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