

patient on September 15, 2013. The employing establishment submitted an incident report indicating that on September 15, 2013 appellant sustained a sprain/strain of the lower back assisting a falling patient.

OWCP requested additional factual and medical evidence supporting appellant's claim on October 7, 2013. In response, appellant submitted treatment notes from Dr. Jessica Folger, a physician Board-certified in emergency medicine, dated September 17, 2013. Dr. Folger noted appellant's history of aiding a falling patient. She stated that appellant reported back and left wrist conditions as a result of placing her arms under the patient's arms to lower him to the ground. Dr. Folger noted that appellant had previously undergone back surgery. She stated that appellant indicated that she had pain in the right mid-back with radiation into the right leg and groin. Dr. Folger found no associated signs or symptoms. Appellant demonstrated normal strength and normal sensation in all extremities. Dr. Folger diagnosed back pain, sciatica, and multiple strains including the wrist.

Dr. Richard Smith, a Board-certified orthopedic surgeon, first examined appellant on September 24, 2013. He diagnosed sciatica, right wrist pain, cervicgia, paresthesias, and thoracic spine pain. Dr. Smith described appellant's employment incident of catching a falling patient with onset of pain in the neck and back. Appellant reported back pain radiating into her legs and wrist. On physical examination Dr. Smith found muscle spasms in the cervical, thoracic, and lumbar spines. Dr. Smith found an obscure motor weakness, normal reflexes, and sensation intact to light touch in all extremities. Appellant underwent a lumbar magnetic resonance imaging (MRI) scan on October 17, 2013 which demonstrated degenerative findings at L5-S1 with deformity of the right lamina suggesting previous surgery, spondylosis and disc bulge with facet arthropathy. On October 8, 2013 Dr. Smith examined appellant and noted that she reported pain radiating down her right leg and gait disturbance. He found that she had positive posterior tenderness in her spine with paravertebral muscle spasm and bilateral lumbosacral tenderness from L2-S1. Appellant's left wrist was also swollen and tender. Dr. Smith completed notes on September 24 and October 8, 2013 indicating that she was totally disabled until October 23, 2013.

Dr. Jacob P. Schwarz, a Board-certified neurosurgeon, examined appellant on November 11, 2013 and noted a history of lower back and bilateral lower extremity pain as well as L5-S1 hemilaminectomy. He stated that she attempted to catch a 250-pound patient who was falling to the ground on September 15, 2013. Dr. Schwarz reported that appellant experienced immediate pain in her lower back and legs. On physical examination he found no loss of strength or sensation in the lower extremities. Dr. Schwarz reviewed appellant's MRI scan. He diagnosed lumbar radiculopathy, lumbar stenosis and lumbar disc displacement.

By decision dated November 13, 2013, OWCP denied appellant's claim on the grounds that she failed to submit sufficient medical opinion evidence to establish that a medical condition resulted from her accepted employment injury. It found that she had not submitted the necessary medical opinion evidence explaining how her employment incident caused, contributed, aggravated, or precipitated her diagnosed medical conditions.

Appellant requested a review of the written record by an OWCP hearing representative on November 19, 2013. Dr. Smith completed a note on November 21, 2013 and stated that it

was his opinion that appellant's current back discomfort and radicular symptoms were due to her attempt to catch a patient on September 15, 2013. He stated that this incident resulted in a disc protrusion and sciatica-like syndrome.

In a decision dated March 18, 2014, OWCP hearing representative found that the medical evidence was not sufficiently detailed and well reasoned to establish an injury-related condition resulting from the accepted September 15, 2013 work incident.

Appellant, through counsel, requested reconsideration on May 15, 2014. He submitted additional medical evidence in support of the request. Dr. Vaughan A. Allen, a Board-certified neurosurgeon, examined appellant on December 30, 2012 and described appellant's employment incident as lifting a patient. He stated that this resulted in the onset of severe low back pain, bilateral hip pain and left leg pain. Dr. Allen noted that he performed appellant's previous back surgery and reviewed her MRI scan which demonstrated right paracentral disc protrusion and degenerative changes from L4-5 and L5-S1. He diagnosed lumbar strain and lumbar radiculopathy. Appellant provided a computerized tomography (CT) scan dated March 6, 2014 which demonstrated severe left foraminal stenosis and moderate right foraminal stenosis at L5-S1 due to marked disc degeneration. She also provided a lumbar myelogram of the same date which demonstrated mild central stenosis at T12-L1 and L4-5 as well as mild lateral recess stenosis on the right at L4-5. Appellant also resubmitted Dr. Smith's November 21, 2013 note.

By decision dated July 2, 2014, OWCP denied modification of its prior decisions finding that the medical evidence did not provide the necessary rationale to establish a causal relationship between appellant's diagnosed back and wrist conditions and her accepted employment incident.

LEGAL PRECEDENT

An employee seeking benefits under FECA² has the burden of establishing the essential elements of his or her claim by the weight of the reliable, probative and substantial evidence, including the fact that the individual is an "employee of the United States" within the meaning of FECA and that the claim was timely filed within the applicable time limitation period of FECA, that an injury was sustained 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.³ These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁴

OWCP defines a traumatic injury as, "[A] condition of the body caused by a specific event or incident, or series of events or incidents, within a single workday or shift. Such condition must be caused by external force, including stress or strain which is identifiable as to time and place of occurrence and member or function of the body affected."⁵ To determine

² 5 U.S.C. §§ 8101-8193.

³ *Kathryn Haggerty*, 45 ECAB 383, 388 (1994); *Elaine Pendleton*, 41 ECAB 1143 (1989).

⁴ *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁵ 20 C.F.R. § 10.5(ee).

whether a federal employee has sustained a traumatic injury in the performance of duty, it must first be determined whether a “fact of injury” has been established. 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 Second, the employee must submit sufficient evidence, generally only in the form a medical evidence, to establish that the employment incident caused a personal injury.⁷

A medical report is of limited probative value on a given medical question if it is unsupported by medical rationale.⁸ Medical rationale includes a physician’s detailed opinion on the issue of whether there is a causal relationship between the claimant’s diagnosed condition and the implicated employment activity. The opinion of the physician must be based on a complete factual and medical background of the claim, 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 specific employment activity or factors identified by the claimant.⁹

ANALYSIS

Appellant filed a claim alleging that, on September 15, 2013, she injured her back and left wrist catching a patient who was falling. The Board finds that the factual evidence establishes that the employment incident occurred as alleged. However, appellant must also submit sufficient rationalized medical opinion evidence to establish that a diagnosed condition was caused or aggravated by the accepted employment incident in order to establish her traumatic injury claim. In support of her claim, appellant submitted medical reports from several physicians. Dr. Folger initially examined appellant and reported a history of aiding a falling patient by placing her arms under the patient’s to lower him to the ground. She noted that appellant had pain in the right mid-back with radiation into the right leg and groin. Dr. Folger diagnosed back pain, sciatica, and multiple strains including the wrist. Her notes are not sufficient to meet appellant’s burden of proof in establishing a diagnosed condition resulting from her accepted employment incident. Dr. Folger did not provide a medical opinion that the employment incident resulted in the diagnosed conditions. Furthermore, appellant provided a diagnosis of back pain. The Board has held that the mere diagnosis of “pain” does not constitute the basis for payment of compensation.¹⁰ Without medical opinion evidence concluding that appellant’s September 2013 employment incident resulted in specific back and wrist conditions and explaining how these injuries occurred, Dr. Folger did not provide the necessary evidence to meet appellant’s burden of proof.

⁶ *John J. Carlone*, 41 ECAB 354 (1989).

⁷ *J.Z.*, 58 ECAB 529 (2007).

⁸ *T.F.*, 58 ECAB 128 (2006).

⁹ *A.D.*, 58 ECAB 149 (2006).

¹⁰ *Robert Broome*, 55 ECAB 339 (2004).

On November 11, 2013 Dr. Schwarz examined appellant on November 11, 2013 and related that appellant attempted to catch a 250-pound patient who was falling to the ground on September 15, 2013. He diagnosed lumbar radiculopathy, lumbar stenosis and lumbar disc displacement. Dr. Allen completed a report dated December 30, 2013 and described appellant's employment incident as lifting a patient. He stated that he had performed appellant's previous back surgery. Dr. Allen diagnosed lumbar strain and lumbar radiculopathy.

Like Dr. Folger, neither Dr. Schwarz nor Dr. Allen provided a statement opining that appellant's diagnosed conditions were caused or aggravated by her employment incident. As these physicians did not offer the necessary medical opinion evidence, these reports are not sufficient to establish a causal relationship between appellant's diagnosed condition and her employment and do not meet her burden of proof in establishing a traumatic injury claim.

Appellant also sought treatment from Dr. Smith who examined her on September 24 and October 8, 2013. Dr. Smith described appellant's employment incident of catching a falling patient with onset of pain in the neck and back. He diagnosed sciatica, right wrist pain, cervicgia, paresthesias, and thoracic spine pain. This report also lacks the necessary opinion evidence to meet appellant's burden of proof. While Dr. Smith described appellant's employment September 2013 employment incident and diagnosed sciatica as well as paresthesias in addition to his diagnoses of pain, he did not offer an opinion that appellant's employment incident caused or aggravated the diagnosed conditions. Without a medical opinion that the employment incident caused or contributed to appellant's diagnosed conditions, this report is not sufficient to meet appellant's burden of proof in establishing a traumatic injury claim.

In his November 21, 2013 note, Dr. Smith stated that it was his opinion that appellant's current back discomfort and radicular symptoms were due to her attempt to catch a patient on September 15, 2013. He stated that this incident resulted in a disc protrusion and sciatica-like syndrome. This report provides an opinion that appellant's diagnosed condition of disc protrusion was the result of the September 15, 2013 employment incident. However, Dr. Smith did not provide any reasoning in support of his conclusion. Without medical rationale explaining how the September 15, 2013 caused or aggravated appellant's current back condition this report is not sufficient to meet appellant's burden of proof. As appellant had a preexisting back condition resulting in surgery, she must provide a comprehensive medical report including her prior medical history, a description of her September 15, 2013 employment incident, and medical reasoning describing how and why this incident resulted in her currently diagnosed back conditions. As Dr. Smith's November 21, 2013 note lacks medical rationale in support of his opinion on causal relationship, this note does not meet appellant's burden of proof in establishing her traumatic injury claim.

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 failed to submit the necessary rationalized medical opinion evidence to establish that her September 15, 2013 employment incident resulted in a traumatic injury.

ORDER

IT IS HEREBY ORDERED THAT the July 2, 2014 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: August 14, 2015
Washington, DC

Patricia H. Fitzgerald, Deputy Chief Judge
Employees' Compensation Appeals Board

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

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