



## **FACTUAL HISTORY**

On February 19, 2015 appellant, then a 50-year-old city carrier, filed a traumatic injury claim (Form CA-1) alleging that on February 9, 2015 he “slipped on ice while carrying in the dark and fell.” He indicated that, as a result thereof, he sustained injuries to his back and shoulder. In support of his claim appellant submitted a February 17, 2015 duty status report. He also submitted an “Authorization for Examination or Treatment Form” that was signed on February 20, 2015. In this form, a physician completed “Part B -- Attending Physician’s Report.” The handwritten answers on this form are largely illegible, as is the physician’s signature. The physician checked a box marked “yes” indicating that he believed that appellant’s condition was caused or aggravated by the employment activity, and he further indicated that appellant was totally disabled beginning February 17, 2015 until an undetermined date.

By letter dated March 19, 2015, OWCP informed appellant that further information was needed in support of his claim. Appellant did not respond to this letter.

By decision dated April 21, 2015, OWCP noted that when the claim was first received, it appeared to be for a minor injury that resulted in minimal or no lost time from work and that based on this criteria, plus the fact that the employing establishment did not controvert continuation of pay or challenge the merits of the case, payment of a limited amount of medical expenses was administratively approved without consideration of the merits of the claim. However, as OWCP became aware that appellant had returned to work in a full-time capacity, it conducted a merit review of appellant’s case. It found that, although the evidence established that the event occurred as alleged, the claim was denied as appellant had not submitted medical evidence containing a firm medical diagnosis in connection with the injury and or events.

## **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 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 and/or specific condition for which compensation is claimed are causally related to the employment injury. 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.<sup>2</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 or exposure which is alleged to have occurred.<sup>3</sup> In order to meet his burden of proof to establish the fact that he sustained an injury in the

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<sup>2</sup> *Jussara L. Arcanjo*, 55 ECAB 281, 283 (2004).

<sup>3</sup> *See* Federal (FECA) Procedure Manual, Part 2 -- Claims, *Fact of Injury*, Chapter 2.803(2)(a) (August 2012).

performance of duty, an employee must submit sufficient evidence to establish that he or she actually experienced the employment injury or exposure at the time, place, and in the manner alleged.<sup>4</sup>

The second component is whether the employment incident caused a personal injury and generally can be established only by medical evidence.<sup>5</sup> The medical evidence required to establish causal relationship is usually rationalized medical evidence. Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the claimant, 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.<sup>6</sup>

### ANALYSIS

Appellant alleged that on February 9, 2015 he suffered injuries to his back and shoulder when he slipped on ice during the performance of his federal duties. OWCP accepted that the incident occurred as alleged. However, it denied appellant's claim finding that he failed to establish a firm medical diagnosis and failed to establish that this diagnosis was causally related to the employment incident of February 9, 2015. The Board finds that appellant has not submitted medical evidence that establishes a firm medical condition causally related to the accepted employment incident.

The medical evidence submitted prior to OWCP's decision was limited to a duty status report and an attending physician's report on an authorization for treatment form. Both of these documents are largely illegible. The Board cannot read the physician's signature on either document and therefore the documents cannot constitute competent medical evidence.<sup>7</sup> Furthermore, the Board notes that both of these documents contain conclusions with regard to appellant's medical condition, its relationship to his employment, and his work capacity but without a detailed narrative explaining these conclusions.

A medical diagnosis and an opinion on causal relationship must be based on rationalized medical opinion evidence.<sup>8</sup> A physician must accurately describe appellant's work duties and medically explain the process by which these duties would have caused or aggravated his

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<sup>4</sup> *Linda S. Jackson*, 49 ECAB 486 (1998).

<sup>5</sup> *John J. Carlone*, 41 ECAB 354 (1989); *Horace Langhorne*, 29 ECAB 820 (1978).

<sup>6</sup> *Judith A. Peot*, 46 ECAB 1036 (1995); *Ruby I. Fish*, 46 ECAB 276 (1994).

<sup>7</sup> *See Merton J. Sills*, 39 ECAB 572 (1988).

<sup>8</sup> *M.E.*, Docket No. 14-1064 (issued September 29, 2014).

condition.<sup>9</sup> Because appellant has not provided such medical opinion evidence in this case, he failed to meet his burden of proof.

The Board notes that appellant submitted additional evidence after OWCP issued its decision. Appellant contends on appeal that he did everything he could to timely get this information to OWCP and that any delay was an error on the part of the physician's office. The Board lacks jurisdiction to review new evidence for the first time on appeal.<sup>10</sup> Appellant may submit this evidence to OWCP with a formal request for reconsideration 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 established an injury in the performance of duty on February 9, 2015, as alleged.

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<sup>9</sup> *Solomon Polen*, 51 ECAB 341 (2000) (rationalized medical evidence must relate specific employment factors identified by the claimant to claimant's condition, with stated reasons by a physician). *See also V.S.*, Docket No. 14-2028 (issued June 3, 2015).

<sup>10</sup> 20 C.F.R. § 501.2(c) (the Board's review of a case is limited to the evidence in the case record that was before OWCP at the time of the final decision).

**ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated April 21, 2015 is affirmed.

Issued: December 10, 2015  
Washington, DC

Christopher J. Godfrey, Chief Judge  
Employees' Compensation Appeals Board

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

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board