

November 19, 2013 discharge instructions from Orange Park Medical Center were issued for knee sprain, arm pain, and motor vehicle accident.

In a March 5, 2014 letter, OWCP advised appellant of the deficiencies in her claim and provided her the opportunity to submit additional factual and medical evidence, including a physician's opinion supported by a medical explanation as to how the reported work incident caused or aggravated a medical condition.

OWCP received a March 5, 2014 statement from appellant in which she explained that she had gone to see a doctor because of pain, he told her that it was normal to have pain after an accident. Appellant stated that the pain lasted about 10 days, and that she was better now. A March 5, 2014 statement from her manager noted that appellant had declined an offer of medical treatment on the day of the accident and had continued to deliver her route. OWCP also received a March 5, 2014 letter from the employing establishment regarding third-party liability and a December 18, 2013 letter from Orange Park Medical Center regarding an account balance.

By decision dated April 9, 2014, OWCP denied the claim on the grounds that the medical component of fact of injury had not been met. It found that appellant filed a timely claim for a November 19, 2013 work event, but she failed to submit any medical evidence containing a medical diagnosis in connection with the event. OWCP noted that even if she submitted medical evidence containing a diagnosis, there must also be medical evidence which establishes causal relationship.

On July 18, 2014 OWCP received appellant's request for reconsideration.

In a November 19, 2013 emergency provider report, Dr. Jitendra G. Patel, a Board-certified family practitioner, noted that appellant is a postal worker who was rear-ended on the left side of the car today. She indicated that appellant had right forearm and bilateral knee pain due to the motor vehicle accident. Examination findings were provided. Primary impression was knee pain and secondary impression was forearm pain, motor vehicle traffic accident.

An accident report from the employing establishment and from Florida Traffic Crash Driver Information Exchange were provided.

By decision dated July 28, 2014, OWCP denied modification of its prior decision.

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

ANALYSIS

OWCP accepted that the employment incident of November 19, 2013 occurred at the time, place, and in the manner alleged. Appellant alleged that the car she was driving was rear-ended by a private vehicle while she was in the performance of duty. She went to Orange Park Medical Center and was discharged the same day. The issue is whether she sustained any injury in connection to the accepted employment incident. The Board finds that appellant did not meet her burden of proof to establish that this incident caused an injury.

In the November 19, 2013 Orange Park emergency room report, Dr. Patel noted appellant, a postal worker who was rear-ended on the left side of the car today. Her primary impression was knee pain and secondary impression was forearm pain, motor vehicle traffic accident. The Board notes that pain is a description of symptoms, rather than a clear diagnosis of a medical condition.⁷ Dr. Patel fails to provide any rationale as to whether appellant's knee pain

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 The Board has consistently held that pain is a symptom, rather than a compensable medical diagnosis. *C.F.*, Docket No. 08-1102 (issued October 10, 2008).

or forearm pain resulted in a medical condition. While appellant was subsequently issued discharge instructions for knee sprain, discharge instructions are general application to the public about certain medical conditions and are not determinative of whether the specific employment incident caused the specific condition.⁸ This evidence is also not relevant to the grounds upon which OWCP denied appellant's claim. Thus, Dr. Patel's report and the discharge instructions are insufficient to support appellant's claim.

Thus, the medical evidence submitted by appellant was insufficient to establish an employment-related traumatic injury on November 19, 2013. Because the medical evidence fails to establish that appellant had been diagnosed with a specific medical condition related to the November 19, 2013 employment incident, the Board finds that appellant has not met her burden of proof to establish that she sustained an injury in the performance of duty. The Board will therefore affirm OWCP's July 28, 2014 decision.

Appellant may submit new evidence or argument as part of a formal 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.

On appeal appellant alleges that her hospital bill from the emergency room treatment she received on the same day as the accident, November 19, 2013, should be paid. Ordinarily, the employing establishment will authorize treatment of a job-related injury by providing the employee a properly executed Form CA-16 within four hours. *See* 20 C.F.R. § 10.300; *Val D. Wynn*, 40 ECAB 666 (1989); a Form CA-16, authorization of medical care, was not issued in this case. However, under 5 U.S.C. § 8103, OWCP has broad discretionary authority to approve unauthorized medical care which it finds necessary and reasonable in cases of emergency or other unusual circumstances. Upon return of the case record, it should consider whether appellant's initial medical care in the hospital emergency room should be authorized pursuant to 20 C.F.R. § 10.304, which provides that in cases involving emergencies or unusual circumstances, OWCP may authorize treatment in a manner other than as stated in this subpart. *See M.A.*, Docket No. 14-1071 (issued October 3, 2014); *J.D.*, Docket No. 14-936 (issued August 8, 2014).

CONCLUSION

The Board finds that appellant has not met her burden of proof to establish that she sustained an injury in the performance of duty on November 19, 2013.

⁸ *See Gaetan F. Valenza*, 35 ECAB 763 (1984); *Kenneth S. Vansick*, 31 ECAB 1132 (1980).

ORDER

IT IS HEREBY ORDERED THAT the July 28, 2014 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: January 28, 2015
Washington, DC

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

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

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