

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

S.A., Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Washington, DC, Employer**

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**Docket No. 15-0959
Issued: July 14, 2015**

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

Case Submitted on the Record

DECISION AND ORDER

Before:

CHRISTOPHER J. GODFREY, Chief Judge
PATRICIA H. FITZGERALD, Deputy Chief Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On March 25, 2015 appellant filed a timely appeal from an October 21, 2014 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 has met her burden of proof to establish that she sustained a back injury in the performance of duty on October 1, 2013.

¹ 5 U.S.C. § 8101 *et seq.*

FACTUAL HISTORY

On October 22, 2013 appellant, then a 55-year-old mail processing clerk, filed a Form CA-1 claim for traumatic injury alleging that she sustained a back injury on October 1, 2013,² while lifting a tray of mail. She did not stop work. In a brief statement dated October 22, 2013, appellant indicated that she was lifting a tray of mail to put on her ledge and she twisted or sprained a muscle in her back.

Appellant submitted an October 16, 2013 report from Dr. Daniel Ignacio, a Board-certified physiatrist, who stated that appellant was seen for “medical conditions that developed” while appellant was at work on October 1, 2013.³ Dr. Ignacio reported that her job required repetitive movements such as lifting, bending, pushing, pulling, and reaching. He stated that appellant had developed pain along the neck, left shoulder, back, and left hip as she was performing her job duties. In addition, Dr. Ignacio stated that the pain worsened when she performed repetitive job activities. He provided results on examination and diagnosed: acute cervical, left shoulder, lumbar, and left hip strains, and acute lumbar disc syndrome. Dr. Ignacio stated that appellant should continue on light duty. Appellant also submitted duty status reports (Form CA-17) from Dr. Ignacio dated November 20 and December 17, 2013. Dr. Ignacio indicated that appellant could work with restrictions.

In a letter dated February 14, 2014, OWCP requested that appellant submit additional evidence in support of her claim. It advised her that the evidence submitted was insufficient to establish an incident as alleged, nor to support an employment injury occurred. On March 10, 2014 appellant submitted a Form CA-17 duty status report from Dr. Ignacio indicating that she could work light duty.

By decision dated March 24, 2014, OWCP denied the claim for compensation. It stated that appellant did not establish the factual element of the claim, as her brief description of the incident was insufficient.

Appellant requested a review of the written record. She submitted a May 12, 2014 statement that provided additional description of the alleged employment incident on October 1, 2013. According to appellant, she was lifting a 20-pound tray from the top stack, and as she lifted the cardboard tray, it gave way. In an attempt to save it, she felt a sharp pain in her lower back. Appellant stated that she also had pain down her left leg.

With respect to medical evidence, appellant submitted additional reports from Dr. Ignacio. In a November 20, 2013 report, Dr. Ignacio noted that appellant had developed pain along the neck, left shoulder, back, and left hip at work on October 1, 2013. He provided results on examination and diagnosed acute cervical, left shoulder, lumbar, and left hip strains, and

² The supervisor’s report on the reverse of the claim form reports that notice was received on January 31, 2014, and the record indicates that OWCP received the claim on February 7, 2014.

³ Dr. Ignacio reports the date of injury as October 1, 2012. A second medical report dated October 16, 2013 shows the date of injury as October 1, 2013.

acute lumbar disc syndrome. In a report dated December 17, 2013, Dr. Ignacio noted that appellant was seen for work-related injuries and was on light duty.

Dr. Ignacio provided a history in a February 27, 2014 report that appellant's job involved a lot of reaching, bending, pulling, and pushing. He stated that appellant injured her back while lifting two heavy trays of mail on October 1, 2013. Dr. Ignacio provided results on examination and again diagnosed acute cervical, left shoulder, lumbar, and left hip strains, with lumbar facet dysfunction and acute lumbar disc syndrome.

In a report dated April 2, 2014, Dr. Ignacio provided a history that appellant was "lifting tray of mails" on October 1, 2013 and had acute pain in the back, neck, and left hip. Following results on examination, he diagnosed chronic cervical, left shoulder, lumbar, and left hip strains, and chronic lumbar disc syndrome. Dr. Ignacio also diagnosed chronic pain syndrome. He stated that the mechanism of injury was a flexion-rotational strain to the cervical and lumbar spine and left hip causing injury to the supporting structure of the spine. Dr. Ignacio stated that appellant continued to suffer with the above-mentioned conditions sustained while in the performance of duty on October 1, 2013.

Appellant was also seen by Dr. Ignacio on May 8, 2014. In a report of that date, Dr. Ignacio provided results on examination. The diagnoses were acute cervical, left shoulder, left hip, lumbar, and facet lumbar strains, with acute lumbar disc syndrome. In a June 5, 2014 report, Dr. Ignacio noted that a cervical magnetic resonance imaging (MRI) scan showed disc narrowing and disc protrusion at C5-6. On July 2, 2014 he diagnosed chronic cervical strain syndrome, chronic left shoulder and lumbar strains, and chronic lumbar disc syndrome and chronic cervical pain syndrome. Dr. Ignacio stated that appellant sustained injuries at work on October 1, 2013.

By decision dated October 21, 2014, an OWCP hearing representative affirmed the denial of the claim. She found the evidence did establish that appellant lifted a tray of mail. The hearing representative also found that the medical evidence from Dr. Ignacio contained inconsistent and inaccurate histories and were not sufficient to establish the claim.

LEGAL PRECEDENT

FECA provides for the payment of compensation for "the disability or death of an employee resulting from personal injury sustained while in the performance of duty."⁴ The phrase "sustained while in the performance of duty" in FECA is regarded as the equivalent of the commonly found requisite in workers' compensation law of "arising out of and in the course of employment."⁵ An employee seeking benefits under FECA has the burden of establishing that he or she sustained an injury while in the performance of duty.⁶ In order to determine whether an employee actually sustained an injury in the performance of duty, OWCP begins with an

⁴ 5 U.S.C. § 8102(a).

⁵ *Valerie C. Boward*, 50 ECAB 126 (1998).

⁶ *Melinda C. Epperly*, 45 ECAB 196, 198 (1993); *see also* 20 C.F.R. § 10.115.

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. The second component is whether the employment incident caused a personal injury, and generally this can be established only by medical evidence.⁷

Rationalized medical opinion evidence is medical evidence that is based on a complete factual and medical background, of reasonable medical certainty, and supported by sound medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant. The weight of medical evidence is determined by its reliability, its probative value, its convincing quality, the care of the analysis manifested, and the medical rationale expressed in support of the physician’s opinion.⁸

ANALYSIS

In the present case, appellant alleged that she sustained an injury on October 1, 2013 when she lifted a tray of mail. In her May 12, 2014 statement, she described an incident where when lifting a 20-pound tray of mail, the cardboard tray gave way, and in her attempt to save the tray she felt a pain in her back. The hearing representative accepted that an incident occurred in the performance of duty on October 1, 2013.

The issue, therefore, is whether the medical evidence is sufficient to establish a diagnosed injury causally related to the employment incident. Although appellant has submitted a number of reports from Dr. Ignacio, they are of diminished probative value to the issue presented. It is not the number of reports submitted, but the probative value as determined by the accuracy and completeness of the physician’s knowledge of the facts and history, and the soundness of the analysis and medical rationale provided in support of the opinion.⁹

In this regard, Dr. Ignacio did not provide reports with an accurate and complete history of injury. In his October 16, 2013 report, he referred to the performance of job duties that included lifting, bending, pushing, pulling, and reaching. Dr. Ignacio did not discuss the specific October 1, 2013 incident described by appellant which serves as the basis for her claim. In his February 27, 2014 report, he again referred to repetitive job duties, and then stated that appellant had lifted two heavy trays of mail. Appellant did not describe lifting two heavy trays of mail in her factual statement. She referred to a single 20-pound tray that gave way. In his April 2, 2014 report, Dr. Ignacio briefly notes that appellant lifted trays of mail, without further explanation. He mentions a mechanism of injury as involving a rotational strain, but he did not provide an accurate history of the October 1, 2013 incident, or discuss the medical history. Dr. Ignacio’s prior reports, which noted general repetitive job activity, referred inaccurately to lifting two heavy trays.

⁷ See *John J. Carlone*, 41 ECAB 354, 357 (1989).

⁸ *Jennifer Atkerson*, 55 ECAB 317, 319 (2004).

⁹ See *S.D.*, Docket No. 14-1855 (issued January 7, 2015).

The Board finds that Dr. Ignacio did not provide a complete and accurate history with respect to the claimed incident. In none of his reports does Dr. Ignacio provide a history that demonstrates his understanding of the October 1, 2013 employment incident as alleged by appellant. This lack of an accurate background reduces the probative value of his reports to the issue presented.

In addition, a medical opinion must be supported by sufficient medical reasoning. Dr. Ignacio provided a number of diagnoses, including acute cervical, left shoulder, lumbar, and left hip strains, and acute lumbar disc syndrome. In his April 2 and July 2, 2014 reports, he diagnosed chronic conditions, including chronic cervical, left shoulder, lumbar, and left hip strains, chronic lumbar disc syndrome, and chronic pain syndrome. Dr. Ignacio appears to relate all of these conditions to appellant's employment duties, without providing specific explanation. To establish a specific condition as causally related to the employment incident, there must be medical rationale explaining the pathophysiological process by which the incident caused the diagnosed condition.¹⁰ Dr. Ignacio did not provide a rationalized medical opinion in this case. It is appellant's burden of proof to establish the claim for compensation, and she did not meet her burden of proof in this case.

On appeal, appellant states that she believes the evidence from Dr. Ignacio is sufficient. She indicates that her claim was denied because of clerical errors in Dr. Ignacio's reports, such as noting the wrong year for the date of injury on his initial report. The deficiencies in the reports from Dr. Ignacio are not the result of clerical errors. As noted above, Dr. Ignacio did not provide a clear and accurate history of the October 1, 2013 employment incident, or provide a rationalized medical opinion, as to causal relationship between a diagnosed condition and the employment incident.

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 appellant did not meet her burden of proof to establish that she sustained a back injury in the performance of duty on October 1, 2013.

¹⁰ See *J.P.*, Docket No. 14-1966 (issued January 23, 2015); *M.D.*, Docket No. 14-1498 (issued January 8, 2015); *C.T.*, Docket No. 11-625 (issued October 17, 2011).

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated October 21, 2014 is affirmed.

Issued: July 14, 2015
Washington, DC

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

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

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