United States Department of Labor
Employees' Compensation Appeals Board

K.J., Appellant	)	
and	)	**Docket No. 15-34**
	)	**Issued: June 15, 2015**
U.S. POSTAL SERVICE, POST OFFICE, Duluth, GA, Employer	)	

Appearances:
Lonnie Boylan, Esq., for the appellant
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
CHRISTOPHER J. GODFREY, Chief Judge
COLLEEN DUFFY KIKO, Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On October 6, 2014 appellant, through counsel, filed a timely appeal from merit decisions of the Office of Workers' Compensation Programs (OWCP) dated April 18 and July 22, 2014. Pursuant to the Federal Employees' Compensation Act[1] (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 established an injury in the performance of duty on March 4, 2012, as alleged.

On appeal appellant's counsel contends that the medical evidence establishes that appellant's injuries were causally related to the March 4, 2012 employment incident.

[1] 5 U.S.C. § 8101 *et seq.*

FACTUAL HISTORY

On March 21, 2012 appellant's supervisor filed a traumatic injury claim on behalf of appellant, who was then a 58-year-old mail processing clerk. Her supervisor noted that appellant alleged that on March 4, 2012 a coworker ran into her. The nature of injury was listed as "all other occupational illnesses not applicable chest." In an authorization for treatment form (Form CA-16) dated March 6, 2012, appellant stated that another employee ran into her at work while he was running down the aisle across from a mail processing machine and that she was knocked to the floor.

In support of her claim, appellant submitted medical records and notes from the Gwinnett Clinic dated March 6 through April 26, 2012. These include intake notes, notes from physical examinations that are largely illegible, and radiology orders. The record also contained work excuse notes signed by Dr. Meena Shah, a Board-certified family practitioner, dated March 12 and 29, 2012, finding appellant totally disabled. There is also an attending physician's report dated March 12, 2012 wherein an unidentified person at the Gwinnett Clinic found that appellant had chest and shoulder pain related to her employment.

By decision dated May 14, 2012, OWCP denied appellant's claim. It determined that the medical evidence failed to establish a diagnosed condition causally related to the employment incident.

On June 12, 2012 appellant requested review of the written record by an OWCP hearing representative.

In an April 17, 2012 note, Dr. Maurice Jove, a Board-certified orthopedic surgeon, noted that appellant complained of discomfort and pain in her left knee, a chronic ongoing problem. He noted that she was exquisitely tender and had pain with rotation, abduction, and forward flexion above the subacromial arch. Dr. Jove gave appellant an injection of Cortisone. He noted that x-rays of her shoulder demonstrated no bony or soft tissue abnormalities but some changes along the tuberosity. Dr. Jove noted that, with regard to her left knee, appellant has pain along the medial joint line which has been ongoing for many years. He noted that she appeared to have a meniscal tear, but x-rays did not demonstrate any significant pathology.

Dr. Jove noted that, with regard to her right shoulder, appellant apparently passed out when she was hit by her coworker and fell to the floor. In an April 24, 2012 note, he reported that her knee continued to bother her. Dr. Jove noted that appellant's magnetic resonance imaging (MRI) scan showed a large medial meniscal tear, patellofemoral arthritis, and some other changes that were significant. Dr. Jove recommended arthroscopy.

In a May 1, 2012 report, Dr. Farhan Malik, a Board-certified family practitioner, noted that appellant had an exacerbation of left knee pain approximately six weeks ago. He listed his clinical impression as left knee medial meniscus tear.

Dr. Jove noted, in a May 8, 2012 note, that appellant had no pain or complaints, that she felt much better, and that she would continue to improve with time. In a June 21, 2012 note, he found appellant doing very well with her ankle, but that she was also having problems with her

shoulder. Dr. Jove noted that all of this was related to appellant's work injury. In a July 24, 2012 report, he diagnosed pain and discomfort in her right shoulder that had not improved. Dr. Jove noted that appellant's knee had improved. In an August 2, 2012 report, he reviewed her MRI scan which demonstrated chronic impingement along the distal cuff and a spur which was indenting the cuff, causing cystic changes adjacent to it on the humeral head. Dr. Jove further noted that the biceps tendon and the labrum appeared to be torn.

In an October 17, 2012 decision, an OWCP hearing representative noted that appellant had provided evidence of a medial meniscus tear and possible right shoulder rotator cuff tear. He noted that her knee problem had been long-standing. The hearing representative found that appellant had not established that her medical diagnoses were causally related to the employment incident. Accordingly, he affirmed the May 14, 2012 decision as modified.

In a February 1, 2013 report, Dr. Shah clarified her diagnosis of pain as previously stated in the March 12, 2012 report. She stated that based upon her examination and the nature of appellant's injuries, it was her professional determination that appellant's injuries could have been sustained as a result of her being run over by or colliding with a coworker and falling to the floor.

In a June 11, 2013 report, Dr. Jove noted that he had been taking care of appellant since April 17, 2012, that he last saw her on October 23, 2012, and that she had suffered from pain in her knee for many months. He summarized his treatment of appellant. Dr. Jove stated that on May 29, 2012 it was his understanding that her claim had been accepted relating to her chest and shoulder. This would consistent with appellant's complaints when she was knocked down and fell, injuring her shoulder. Dr. Jove opined that the condition either occurred or was aggravated at the time of the fall. He stated that, although there were no MRI scan films prior to the fall, certainly the labral tear could have occurred at the time of the fall, as well as the fall could have been the beginning of impingement and rotator cuff aggravation. Dr. Jove opined that at this point appellant has limitation and instability related to her shoulder. He indicated that she had possibly suffered a permanent injury with the tear of the labrum and the biceps anchor, and that he would have to do an arthroscopic evaluation to see the extent of the injury.

By decision dated September 20, 2013, OWCP denied modification of its October 17, 2012 decision.

On March 11, 2014 appellant, through counsel, filed a request for reconsideration. In support of the reconsideration request, appellant submitted a February 26, 2014 report wherein Dr. Jeff A. Traub, a Board-certified orthopedic surgeon, noted that she had sustained a fall on March 4, 2012 from falling to the ground after being run into by a coworker on March 4, 2012. Dr. Traub related that appellant had no prior problems with her knee or shoulder prior to this accident, but she was doing very well postarthroscopic partial medial meniscectomy and debridement on her knee. Dr. Traub noted that her only remaining complaint is her right shoulder. He noted that most of appellant's pain in her shoulder appeared to be in the subacromial region. Dr. Traub opined that since appellant had no problem with her shoulder prior to the fall and that all of her issues occurred after the fall, he could say within a reasonable degree of medical certainty the fall was the cause of this condition. He recommended that appellant have a shoulder arthroscopy, decompression, and that he would evaluate the labrum at

the time of the surgery. Dr. Traub concurred with Dr. Jove's diagnosis. He also stated that he agreed that the causal relationship of this injury was sustained on March 4, 2012 during a fall when she was working at the employing establishment.

By decision dated April 18, 2014, OWCP denied modification of the September 20, 2013 decision.

On June 9, 2014 appellant, through counsel, again requested reconsideration. In support thereof, appellant's representative submitted the May 21, 2014 report wherein Dr. Dean S. Attaway, a Board-certified family practitioner, noted that appellant was injured when a coworker forcibly ran into her on March 4, 2012 causing her to fall unabated to the concrete workroom floor. He noted that as a direct result of her being unable to break her fall, she struck her left knee, chest, and right shoulder on the concrete work floor with the full force of her body. Dr. Attaway opined that, based on his 32 years of medical experience, physical examination, testing and observation, review of the relevant medical documents provided by Drs. Jove, Malik, and Traub, and the radiographic interpretations of objective diagnostic tests, it was his unequivocal opinion that given the absence of other causal factors, it was within a reasonable degree of medical certainty that the diagnoses of left knee medial meniscal tear, right shoulder rotator cuff tear, right shoulder superior labrum tear at the biceps anchor, and right shoulder impingement conditions were a natural and continuing sequence which would not have manifested itself to the present disabling stage if not precipitated by the factors of her employment on March 4, 2012. He emphasized that he was not aware of any previous medical history or medical treatment prior to March 4, 2012. Dr. Attaway concurred with Drs. Jove and Malik as to the medical necessity of the left knee medial meniscectomy and partial debridement of her patellofemoral chondral defects, and that the conditions were a direct result of the March 4, 2012 traumatic fall. He also agreed with Dr. Traub's assessment that it was medically reasonable and necessary that appellant should have a right shoulder arthroscopy, decompression, and evaluation of the labrum at the time of the procedure. Dr. Attaway opined that appellant was temporarily totally disabled beginning March 4, 2012, but that he had no doubt after treatment appellant would be able to return to gainful employment with the employing establishment.

By decision dated July 22, 2014, OWCP denied modification of the April 18, 2014 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 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.[2]

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.[3] In order to meet his or her burden of proof to establish the fact that he or she sustained an injury in the 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.[4] The second component is whether the employment incident caused a personal injury and generally can be established only by medical evidence.[5]

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.[6]

ANALYSIS

OWCP accepted that on March 4, 2012 appellant fell to the floor when another employee accidentally ran into her. However, it denied her claim because she failed to establish a diagnosed medical condition causally related to this incident.

The Board finds that the medical evidence does not establish that appellant suffered injuries causally related to the accepted employment incident. Initially, the Board notes that the incident occurred on March 4, 2012; however, in his April 17, 2012 report, Dr. Jove noted that appellant's left knee had been bothering her for many, many months. Therefore, Dr. Jove likely believed that appellant's knee problem preexisted her employment incident. In his June 11, 2013 report, he determined that appellant's shoulder condition either recurred or was aggravated at the time of the fall, and that the labral tear could have occurred at the time of the fall, as well as it could have been the cause of impingement and rotator cuff aggravation. Dr. Jove, however,

[2] *Jussara L. Arcanjo*, 55 ECAB 281, 283 (2004).

[3] *See Elaine Pendleton*, 40 ECAB 1143 (1989).

[4] *Linda S. Jackson*, 49 ECAB 486 (1998).

[5] *John J. Carlone*, 41 ECAB 354 (1989); *Horace Langhorne*, 29 ECAB 820 (1978).

[6] *Judith A. Peot*, 46 ECAB 1036 (1995); *Ruby I. Fish*, 46 ECAB 276 (1994).

provides no medical rationale to support this opinion. Medical evidence that does not provide rationale for the opinion offered is of little probative value.[7]

In her February 1, 2013 report, Dr. Shah tried to clarify her diagnosis of pain in the March 12, 2012 report. She indicated that, based upon that examination and the nature of appellant's injuries, it was her professional opinion that appellant's injuries could have been sustained as a result of her being run over or colliding with a coworker and falling to the floor. The Board has consistently held that a diagnosis of pain is a description of a symptom rather than a compensable medical diagnosis.[8] Dr. Shah does provide a medical diagnosis beyond appellant's "injuries." Finally, his opinion is equivocal because she stated that appellant's injuries "could have been sustained" as a result of the employment incident. An equivocal opinion has little or no evidentiary value.[9]

Dr. Traub's opinion indicates that he believed the condition was causally related to the employment incident because appellant did not have the condition prior to the fall, but did have the condition thereafter. The Board has found that an opinion finding causal relationship because the employee was asymptomatic before the injury, but symptomatic after the injury is insufficient, without more to establish causal relationship.[10] However, this is not an acceptable medical reason without more in the way of medical rationale explaining the nexus between the mechanism of the injury and the diagnosed condition.

Dr. Attaway opined that appellant's shoulder and knee condition were causally related to the accepted employment incident. However, his report is dated two years after the accepted incident. He appears to have based his conclusions on those reports of appellant's other physicians. Dr. Attaway stated that he examined appellant, but there are no examination findings and no medical rationale supporting his conclusion. Without these elements, a medical opinion is deficient and cannot support causal relationship.[11]

Causal relationship must be based on rationalized medical opinion evidence.[12] A physician must accurately describe appellant's work duties and medically explain the process by which these duties caused or aggravated his condition.[13] Because appellant did not submit a

[7] *Id*.

[8] *D.H.*, Docket No. 14-1852 (issued January 27, 2015).

[9] *Philip J. Deroo*, 39 ECAB 1294 (1988) (although the medical opinion of a physician supporting causal relationship does not have to reduce the cause or etiology of a disease or condition to an absolute medical certainty, neither can such opinion be speculative or equivocal); *Jennifer Beville*, 33 ECAB 1370 (1982) (statement of a Board-certified internist that the employee's complaints could have been related to her work injury was speculative and of limited probative value).

[10] *John F. Glynn*, 53 ECAB 562, 567 (2002).

[11] *Gary L. Fowler*, 45 ECAB 365 (1994).

[12] *M.E.*, Docket No. 14-1064 (issued September 29, 2014).

[13] *Solomon Polen*, 51 ECAB 341 (2000) (rationalized medical evidence must relate specific employment factors identified by the claimant to the claimant's condition, with stated reasons by a physician). *See also G.G.*, Docket No 15-234 (issued April 9, 2015).

sufficiently rationalized medical opinion supporting that her injuries were causally related to the accepted March 4, 2012 employment incident, she did not meet her burden of proof to establish an employment-related traumatic injury.

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 did not establish that she sustained an injury in the performance of duty on March 4, 2012, as alleged.

ORDER

IT IS HEREBY ORDERED THAT the decisions of the Office of Workers' Compensation Programs dated July 22 and April 18, 2014 are affirmed.

Issued: June 15, 2015
Washington, DC

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

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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