

FACTUAL HISTORY

On July 5, 2014 appellant, then a 26-year-old mail handler, filed a Form CA-1, traumatic injury claim for compensation, alleging that, on the same date, she sustained a left thumb injury when a postal container fell on her hand. She stopped work on July 5, 2014.

In a July 22, 2014 letter, OWCP noted that appellant's claim had initially been handled as a minor injury and that payment for a limited amount of medical expenses had been administratively approved. It noted that it had reopened the claim for consideration because she had not returned to full-time work. Appellant was advised to submit a physician's opinion supported by a medical explanation as to how the reported work incident caused the claimed injury.

Appellant submitted a July 5, 2014 return-to-work note from the emergency department of Beth Israel Medical Center² which indicated that she could return to duty on July 8, 2014, but could not perform any lifting or carrying.

In a July 18, 2014 report, Dr. Maria Cipollone, a Board-certified plastic surgeon, reported that appellant was under her care and that a magnetic resonance imaging (MRI) scan was pending. She advised that appellant should not use her left hand until MRI scan results were available. Dr. Cipollone, in a July 25, 2014 attending physician's report (Form CA-20), noted that appellant sustained trauma to her left thumb on July 5, 2014, when a metal bar fell on her hand at work. Based on a preliminary assessment of a July 25, 2014 MRI scan, she diagnosed a high grade partial tear of the left thumb radial collateral ligament. Dr. Cipollone indicated that appellant could return to work, performing light duty with no use of the left hand. In the report, she checked a box "yes" to the question of whether the diagnosed condition was employment related. Dr. Cipollone explained that appellant was "asymptomatic prior to injury," and indicated that appellant's injury was consistent with the history of injury. In an August 8, 2014 duty status report (Form CA-17), she diagnosed a left thumb ligament injury and set forth appellant's work restrictions.

In an August 28, 2014 decision, OWCP denied appellant's claim, finding the medical evidence was insufficient to establish that the work incident caused appellant's left thumb condition.

Appellant requested reconsideration and submitted additional medical evidence. In a July 5, 2014 report, Dr. Roy Holliday, a Board-certified diagnostic radiologist, stated that there was no radiographic abnormality of the osseous or soft tissue structures and no evidence of fracture or dislocation. In a July 25, 2014 report, Dr. Robert Irish, a Board-certified diagnostic radiologist, noted left hand MRI scan findings and diagnosed a high grade partial tear of the radial collateral ligament at the metacarpal attachment, based on an MRI scan of appellant's left hand.

Dr. Cipollone, in an August 26, 2014 report, summarized the July 5, 2014 employment incident, stating that a postal container opened and a heavy bar fell onto appellant's left thumb.

² The signature on the note is illegible.

She diagnosed a high grade partial tear of the radial collateral ligament at the metacarpal attachment of the left thumb and opined that the “mechanism of injury described can be consistent with the finding on the patient’s physical exam[ination] and MRI [scan].” Dr. Cipollone further provided treatment records and status notes from August 20, 26, and September 3, 2014.

Appellant resubmitted her initial emergency room treatment records. In a July 5, 2014 emergency room report, Dr. May Li, Board-certified in emergency medicine, related that, about three hours earlier, she reported a hyperextension of the left thumb that occurred while working. She noted that it happened when metal equipment pushed appellant’s thumb back, hyperextending it. Dr. Li noted examination findings and diagnosed a hyperextension injury. She stated that appellant had full tendon strength and that x-rays were negative. Dr. Li advised that appellant could return to work with restrictions.

In a January 13, 2015 decision, OWCP denied modification of its August 28, 2014, finding that the medical evidence was insufficient to establish that appellant sustained an injury causally related to the work incident.

LEGAL PRECEDENT

An employee seeking compensation under FECA has the burden of proof to establish the essential elements of his or her claim by the weight of reliable, probative and substantial evidence,³ including that he or she is an “employee” within the meaning of FECA and that he or she filed her claim within the applicable time limitation.⁴ The employee must also establish that she sustained an injury in the performance of duty as alleged and that her disability for work, if any, was causally related to the employment injury.⁵

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it first must be determined whether fact of injury has been established. There are two components involved in establishing fact of injury. First, the employee must submit sufficient evidence to establish that she actually experienced the employment incident at the time, place, and in the manner alleged. Second, the employee must submit evidence, in the form of medical evidence, to establish that the employment incident caused a personal injury.⁶

Causal relationship is a medical issue and the evidence generally required to establish causal relationship is rationalized medical opinion evidence. Rationalized medical opinion evidence is evidence which includes a physician’s 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, must be one of reasonable medical certainty and must be supported by medical

³ *J.P.*, 59 ECAB 178 (2007); *Joseph M. Whelan*, 20 ECAB 55, 57 (1968).

⁴ *R.C.*, 59 ECAB 427 (2008).

⁵ *Id.*; *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

⁶ *T.H.*, 59 ECAB 388 (2008).

rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.⁷

ANALYSIS

OWCP accepted that the employment incident occurred as alleged. The issue is whether appellant established that the incident caused her left thumb condition. The Board finds that she failed to submit sufficient medical evidence to support that her thumb condition was causally related to the July 5, 2014 employment incident.

In the July 25, 2014 attending physician's report, Dr. Cipollone reported that appellant suffered left thumb trauma at work on July 5, 2014, when a metal bar fell on her hand. She diagnosed a high grade partial tear of the radial collateral ligament in the left thumb. Dr. Cipollone checked the box marked "yes" when asked if she believed that appellant's condition was caused by the employment incident. The Board has held that an opinion on causal relationship which consists only of a physician checking a box yes regarding causal relationship without further explanation or rationale is of little probative value.⁸ Dr. Cipollone failed to adequately explain how the July 5, 2014 employment incident caused the diagnosis provided. She further noted that appellant did not have a left thumb injury prior to the incident. However, the fact that appellant was asymptomatic before July 5, 2014 and symptomatic afterward, by itself, does not establish a causal relationship.⁹

In her August 26, 2014 report, Dr. Cipollone noted that appellant was injured at work, when a postal container fell on her left hand. She opined that the mechanism of injury "can be consistent with the findings on the patient's physical exam[ination] and MRI [scan]." Dr. Cipollone's vague and speculative account of causation is insufficient to discharge appellant's burden of proof. While the opinion of a physician supporting causal relationship need not be one of absolute medical certainty, the opinion must not be speculative or equivocal.¹⁰ By discussing the causal relationship in equivocal terms, Dr. Cipollone failed to medically explain the pathophysiological process by which the July 5, 2014 incident would have caused the diagnosed condition.¹¹ Other reports from Dr. Cipollone are insufficient to establish the claim as they do not specifically support that the July 5, 2014 work incident caused or aggravated the diagnosed medical condition.¹² Consequently, Dr. Cipollone's reports are insufficient to establish appellant's claim.

⁷ *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

⁸ *See Calvin E. King, Jr.*, 51 ECAB 394 (2000); *Frederick E. Howard, Jr.*, 41 ECAB 843 (1990).

⁹ *See T.M.*, Docket No. 08-975 (issued February 6, 2009).

¹⁰ *Ricky S. Storms*, 52 ECAB 349 (2001).

¹¹ *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).

¹² *J.F.*, Docket No. 09-1061 (issued November 17, 2009) (medical evidence that does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship).

In a July 5, 2014 emergency room report, Dr. Li noted treating appellant for a left thumb injury. She related that that appellant stated that the injury occurred at work, when metal equipment pushed her thumb back. Dr. Li diagnosed hyperextension of the left thumb. However, she merely repeated the history of injury as reported by appellant without providing her own opinion regarding whether appellant's condition was work related. To the extent that Dr. Li's statement reflects her own opinion on causal relationship, she failed to provide medical rationale explaining the causal relationship between the July 5, 2014 incident and the diagnosed hyperextension injury. Accordingly, the report is insufficient to meet appellant's burden of proof.

The Board further finds that the remainder of the medical evidence, including the diagnostic reports of Dr. Irish and Dr. Holliday fails to provide an opinion on the causal relationship between the July 5, 2014 work incident and appellant's thumb condition. Such evidence is of limited probative value.¹³

For these reasons, the medical evidence is insufficient to establish that the July 5, 2014 work incident caused appellant's claimed condition.¹⁴

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. §§ 10.606 through 10.607.

CONCLUSION

The Board finds that appellant failed to establish a traumatic injury caused by the accepted July 5, 2014 work-related event.

¹³ *Id.*; see also *C.B.*, Docket No. 09-2027 (issued May 12, 2010); *S.E.*, Docket No. 08-2214 (issued May 6, 2009).

¹⁴ The record also contains a July 5, 2014 return to work note with an illegible signature. A medical report may not be considered as probative medical evidence if there is no indication that the person completing the report qualifies as a physician as defined in 5 U.S.C. § 8101(2). Reports lacking proper identification do not constitute probative medical evidence. *C.B.*, *id.*

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated January 13, 2015 is affirmed.

Issued: June 17, 2015
Washington, DC

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

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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