United States Department of Labor
Employees' Compensation Appeals Board

C.Y., Appellant	)	
and	)	**Docket No. 14-2075**
	)	**Issued: March 2, 2015**
U.S. POSTAL SERVICE, POST OFFICE, Troy, MI, Employer	)	

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

Case Submitted on the Record

DECISION AND ORDER

Before:
CHRISTOPHER J. GODFREY, Chief Judge
ALEC J. KOROMILAS, Alternate Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On September 30, 2014 appellant filed a timely appeal from a September 16, 2014 merit decision of the Office of Workers' Compensation Programs (OWCP). 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 has met her burden of proof to establish that she sustained an injury in the performance of duty.

FACTUAL HISTORY

On March 26, 2014 appellant, then a 40-year-old distribution clerk, filed a traumatic injury claim alleging that on January 24, 2014 she injured her back. She alleged that while she

[1] 5 U.S.C. § 8101 *et seq.*

was "pushing a full APC of metered flats" she began to feel a burning pain sensation in her lower back on the right side. Appellant was released to regular duty on March 27, 2014.

In a February 3, 2014 duty status report (Form CA-17), Dr. James Burtka, a family medicine practitioner, advised that appellant was experiencing pain in the right sacroiliac (SI) joint and diagnosed lumbago. He released appellant to light duty and advised that she was only able to lift 5 to 10 pounds for an hour a day. Dr. Burtka also limited pushing and pulling to 5 to 10 pounds for a maximum of four hours per day. In a February 3, 2014 authorization for treatment (Form CA-16), he gave a history of a "back injury on January 24, 2014." Dr. Burtka reiterated appellant's work restrictions and diagnosis. He also checked the box marked "yes," indicating that appellant's condition was caused or aggravated by employment activities. Appellant also submitted a March 22, 2014 duty status report in which Dr. Burtka advised that appellant was able to return to full eight-hour workdays on March 27, 2014.

The record indicates that appellant was involved in another work-related incident on April 16, 2014.[2] In an April 16, 2014 report, Dr. Burtka advised that appellant complained of back pain associated with squatting, bending, and lifting. He also advised that appellant sustained an injury as soon as she started pushing full equipment again. Dr. Burtka noted that she had burning in the same spot as before in the right SI joint area. In an April 16, 2014 Form CA-16, he advised that appellant related to him that while she was pushing equipment she felt a sharp pain in the same spot as before. Dr. Burtka checked the box marked "yes" when asked if employment activities caused or aggravated the injury.

In an April 21, 2014 report, Dr. Burtka advised that appellant went back to work, but was unable to perform her regular duties because of her work restrictions. He assessed sciatic pain and sacroiliitis. In an April 21, 2014 duty status report, Dr. Burtka reiterated appellant's work restrictions.

Appellant submitted a May 27 and 30, 2014 claim for compensation (Form CA-7) requesting compensation for April 21 through May 30, 2014.

In a May 29, 2014 report, Dr. Burtka advised that appellant's workers' compensation case was still under review and that she related that her appointment was a follow up from a workers' compensation injury. In a June 17, 2014 duty status report, he reiterated her work restrictions. Also on June 17, 2014 Dr. Burtka's treatment note advised that there still was no workers' compensation decision and assessed sacroiliitis. On July 8, 2014 he released appellant to resume her regular duties.

By letter dated August 6, 2014, OWCP notified appellant that initially her claim was administratively handled to allow medical payments, as it appeared to be a minor injury resulting in minimal or no lost time from work. However, it advised that it was now considering the merits of her claim because medical bills had exceeded $1,500.00. OWCP advised appellant of the type of evidence needed to establish her claim.

[2] The record indicates that appellant filed a recurrence claim (Form Ca-2) on April 16, 2014. An August 12, 2014 OWCP memorandum advised that the April 16, 2014 incident would be adjudicated as a new claim as opposed to a recurrence because appellant alleged a new work incident. This other claim is not presently before the Board.

By decision dated September 16, 2014, OWCP denied appellant's claim because medical evidence was insufficient to establish that the work factors on January 24, 2014 caused an injury.

LEGAL PRECEDENT

An employee seeking compensation under FECA has the burden of establishing 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 his or 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 medical evidence to establish that the employment incident caused a personal injury.[6]

Rationalized medical opinion evidence is generally required to establish causal relationship. 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 rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.[7]

ANALYSIS

There is no dispute that on January 24, 2014 appellant was pushing equipment. The evidence supports that the claimed work incident occurred. Therefore, the Board finds that the first component of fact of injury is established. However, the medical evidence is insufficient to establish that the employment incident on January 24, 2014 caused appellant's low back injury.

In the February 3, 2014 form report, Dr. Burtka gave a history of a "back injury on January 24, 2014" and checked the box marked "yes" to indicate that employment activities caused or aggravated appellant's injury. The Board has held that an opinion on causal relationship that consists only of a physician checking yes to a medical form question on whether the claimant's condition was related to the history given is of little probative value.[8] As a result,

[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).

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

[8] *Deborah L. Beatty*, 54 ECAB 334 (2003) (the checking of a box yes in a form report, without additional explanation or rationale, is insufficient to establish causal relationship).

it is insufficient to discharge appellant's burden of proof. In his February 3, 2014 duty status report (Form CA-17), Dr. Burtka advised that appellant was experiencing pain in the right SI joint and diagnosed lumbago. This report is insufficient to discharge appellant's burden of proof because it does not contain an opinion on causal relationship. The Board has held that 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.[9]

Other medical reports submitted pertain to the April 16, 2014 incident and do not address whether the January 24, 2014 work incident caused or aggravated a back injury. Therefore, they are not germane to the adjudication of the January 24, 2014 incident which is currently before the Board.[10]

Appellant has submitted insufficient medical evidence to establish her claim. Causal relationship is a medical question that must be established by probative medical opinion from a physician.[11] The physician must accurately describe appellant's work duties and medically explain the pathophysiological process by which these duties would have caused or aggravated her condition.[12] Because appellant has not provided such medical opinion evidence in this case, she has failed to meet her burden of proof.

On appeal, appellant argues that OWCP paid her medical bill from January 24 to March 27, 2014, which suggests that they accepted her claim. The Board has held that the mere fact that OWCP authorized and paid for medical treatment does not establish that the condition for which the employee received treatment was employment related.[13] Furthermore, in a letter dated August 6, 2014, OWCP informed appellant that a limited amount of expenses were administratively approved; however, because her medical bills exceeded $1,500.00, OWCP reopened the claim to consider the merits of the matter. Appellant also questions why she received correspondence denying her claim and other correspondence assigning her a new case number. The record presently before the Board solely pertains to a March 26, 2014 notice of traumatic injury filed by appellant in which she alleged that the January 24, 2014 work incident caused an injury. The record also indicates that appellant later filed a claim for a recurrence of disability beginning April 16, 2014. OWCP determined that this represented a claim for a new traumatic injury and created a separate case file with regard to the April 16, 2014 employment incident. The September 16, 2014 OWCP decision pertains to the January 24, 2014 incident and that is the only matter that is presently before the Board. The April 16, 2014 incident is being adjudicated separately by OWCP and is not presently before the Board.[14] Appellant further

[9] *S.E.*, Docket No. 08-2214 (issued May 6, 2009).

[10] *See id.*

[11] *See supra* note 7.

[12] *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 S.T.*, Docket No. 11-237 (issued September 9, 2011).

[13] *See Gary L. Whitmore*, 43 ECAB 441 (1992).

[14] *See supra* note 2.

asserts that she submitted evidence within 30 days of OWCP's August 6, 2014 request for additional evidence. However, the record does not reflect that any evidence was received by OWCP within the 30-day period in the claim presently before the Board.[15]

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.

CONCLUSION

The Board finds that appellant did not meet her burden of proof to establish that she sustained a traumatic injury in the performance of duty.

ORDER

IT IS HEREBY ORDERED THAT the September 16, 2014 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: March 2, 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

[15] Appellant also submitted new evidence to the Board on appeal after issuance of OWCP's September 16, 2014 decision. The Board also lacks jurisdiction to review new evidence for the first time on appeal. *See* 20 C.F.R. § 501.2(c).