

FACTUAL HISTORY

On December 2, 2013 appellant, then a 57-year-old clerk, filed a traumatic injury claim alleging that on November 15, 2013 she fell on the floor at work after tripping over carts in the walkway, causing injury to her right hand, right wrist, and her left ankle. The employing establishment controverted her claim.

In a November 27, 2013 medical report, Abbie M. Burk, a nurse practitioner, noted that appellant indicated that on November 15, 2013 she fell on the floor while at work, and twisted her left ankle and fell on her right wrist. She assessed appellant with wrist and ankle sprains. Appellant also submitted December 5, 2013 treatment notes from appellant's physical therapist, Jonna Koenig.

By letter dated December 12, 2013, OWCP informed appellant that the evidence was insufficient to establish her claim, and advised her as to the evidence that she needed to submit in support thereof.

On December 20, 2013 a form report, signed by a nurse practitioner with an illegible signature, noted recurrent numbness and tingling pain of the right hand due to Raynaud's disease which she indicated was not related to employment.

By decision dated January 16, 2014, OWCP denied appellant's claim, finding that she had not established that the event occurred as alleged and that she had not submitted medical evidence containing a medical diagnosis in connection with the injury or event.

On January 24, 2014 appellant, through counsel, requested a telephone hearing before an OWCP hearing representative. She submitted notes from her November 26, 2013 visit to the Emergency Department at The Christ Hospital, Cincinnati, OH. These notes included a summary report indicating that appellant was seen by Dr. Stephen T. Lewis, an osteopath, and Kimberly M. Metcalf, a nurse practitioner. The diagnoses were listed as "fall from other slipping, tripping, or stumbling and musculoskeletal pain."

At the hearing held on August 13, 2014, appellant was represented by counsel. She testified that she slipped and fell on a wet floor near the water fountain at work. Appellant noted that, when she fell, she injured her right hand and wrist, and left ankle. She noted that she hurt her ankle from twisting it, her buttocks from falling on floor, and her wrist when she hit the side of a cart in the hallway. Appellant reported the incident immediately to her manager, Sandy Horton. She stated that she sustained a mild ankle fracture and was in an air cast for two and a half months, but she still experienced swelling. An OWCP hearing representative noted that appellant did establish that an incident occurred in the performance of duty, but stated that further medical evidence was needed, and gave appellant 30 additional days to submit evidence. No new evidence was submitted.

By decision dated October 17, 2014, the hearing representative denied appellant's claim, noting that there was no medical evidence that diagnosed a medical condition which could be related to the November 15, 2013 employment incident.

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 The second component is whether the employment incident caused a personal injury and generally can be established only by medical evidence.⁴ 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.⁵

ANALYSIS

Appellant established that an incident occurred in the course of her federal employment when she fell on November 15, 2013. However, OWCP denied her claim because she did not submit rationalized medical evidence establishing that this fall caused or aggravated a diagnosed medical condition.

The Board finds that the medical evidence of record does not establish a medical condition causally related to the accepted employment incident. In support of her claim, appellant submitted notes by nurse practitioners and a physical therapist. These reports have no probative medical value, as neither physical therapists nor nurse practitioners are considered

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

³ See *Elaine Pendleton*, 40 ECAB 1183 (1989); Federal (FECA) Procedure Manual, Part 2 -- Claims, *Fact of Injury*, Chapter 2.803.2(a) (August 2012).

⁴ *John J. Carlone*, 41 ECAB 354 (1989); *Horace Langhorne*, 29 ECAB 820 (1978).

⁵ *Judith A. Peot*, 46 ECAB 1036 (1995); *Ruby I. Fish*, 46 ECAB 276 (1994).

physicians as defined under FECA.⁶ Although the notes from The Christ Hospital indicate that appellant was seen by Dr. Lewis, there is no report or note by Dr. Lewis in the record. Appellant indicated at the hearing that she received extensive medical treatment, but she neglected to submit medical records supporting this treatment.

As noted, causal relationship is a medical question that must be established by a probative medical opinion from a physician.⁷ The physician must accurately describe appellant's work duties and medically explain the pathophysiological process by which this incident would have caused or aggravated his condition.⁸ Neither the fact that appellant's claimed condition became apparent during a period of employment nor her belief that the condition was caused by her employment, is sufficient to establish causal relationship.⁹ Because appellant has not provided such medical opinion evidence in this case, she has failed to meet her burden of proof.

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 failed to meet her burden of proof to establish that she sustained an injury in the performance of duty on November 15, 2013, as alleged.

⁶ The term physician includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, and osteopathic practitioners within the scope of their practice as defined by State law. 5 U.S.C. § 8102(2); *A.C.*, Docket No. 08-1453 (issued November 18, 2008) (records from a physical therapist do not constitute competent medical opinion in support of causal relation, as physical therapists are not physicians as defined under FECA); *L.D.*, 59 ECAB 648 (2008) (a nurse practitioner is not a physician as defined under FECA); *Roy L. Humphrey*, 57 ECAB 238 (2005). *See also J.G.*, Docket No. 15-251 (issued April 13, 2015).

⁷ *W.P.*, Docket No. 14-1076 (issued September 18, 2014).

⁸ *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).

⁹ *D.I.*, 59 ECAB 158 (2007); *Ruth R. Price*, 16 ECAB 688, 691 (1965).

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated October 17, 2014 is affirmed.

Issued: May 20, 2015
Washington, DC

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

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

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