

On appeal appellant argued that he did not have preexisting back problems despite his diagnosis of degenerative joint disease. He also alleged that he had cartilage damage to his hip which was not visible on x-ray. Appellant asserted that he was in continual pain and feared losing his job.

FACTUAL HISTORY

On January 21, 2015 appellant, then a 50-year-old wildlife refuge manager, filed a traumatic injury claim (Form CA-1) alleging on March 7, 2014 that he had a snowmobile accident and fell onto a log in a deep gulley injuring his lower back and hip.

In a letter dated January 26, 2015, OWCP requested that appellant provide additional factual and medical evidence in support of his claim.

By decision dated January 27, 2015, OWCP determined that appellant had not met the criteria for continuation of pay as he did not report his injury on a form approved by OWCP within 30 days following the injury.

Appellant submitted a duty status report dated January 9, 2015, from Dr. Donald R. Lehmann, a Board-certified orthopedic surgeon. It noted that appellant fell from a snowmobile, landing on his low back on a log. Dr. Lehmann diagnosed lumbar sprain. In a separate note of the same date, he listed appellant's date of injury as March 2014. Dr. Lehmann reported that appellant fell off an embankment onto a log striking his back. He documented that appellant's snow machine nearly landed on top of him. Appellant had significant back pain, but did not seek medical attention immediately following the accident. He currently reported discomfort while walking. On examination Dr. Lehmann found tenderness in the right lumbar sacroiliac joint area which was clearly reproducible. He reviewed back x-rays and found loss of disc height at L5-S1 with anterior lipping of vertebra at L4-5 and L5-S1. Appellant's right hip x-ray shows slight sclerosis at the acetabulum and no obvious degenerative joint disease. Dr. Lehmann diagnosed degenerative joint disease of the spine with possible radicular component since the March 2014 injury.

By decision dated March 3, 2015, OWCP denied appellant's claim because he had failed to submit the necessary medical opinion evidence to establish a causal relationship between his diagnosed degenerative joint disease of the spine and his accepted employment-related snowmobile accident.

LEGAL PRECEDENT -- ISSUE 1

Section 8118 of FECA³ provides for payment of continuation of pay, not to exceed 45 days, to an employee who has filed a claim for a period of wage loss due to traumatic injury with his or her immediate supervisor on a form approved by the Secretary of Labor within the time specified in section 8122(a)(2) of this title. Section 8122(a)(2) provides that written notice of injury must be given as specified in section 8119. The latter section provides in part that notice

³ 5 U.S.C. § 8118.

of injury shall be given in writing within 30 days of the injury.⁴ Claims that are timely under section 8122 are not necessarily timely under section 8118(a). FECA authorizes continuation of pay for an employee who has filed a valid claim for traumatic injury.⁵ Section 8118(a) makes continuation of pay contingent on the filing of a written claim within 30 days of the injury. When an injured employee makes no written claim for a period of wage loss within 30 days, he is not entitled to continuation of pay, notwithstanding prompt notice of injury.⁶

Section 10.205 of OWCP regulations provide in pertinent part that to be eligible for continuation of pay, a person must: (1) have a traumatic injury which is job related and the cause of the disability, and/or the cause of lost time due to the need for medical examination and treatment; (2) file (Form CA-1) within 30 days of the date of the injury; and (3) begin losing time from work due to the traumatic injury within 45 days of the injury.⁷

ANALYSIS -- ISSUE 1

Appellant filed a traumatic injury claim on January 21, 2015 for an injury sustained on March 7, 2014. No evidence in the record supports an earlier written notice. The evidence of record establishes that appellant did not file his claim within 30 days from the date of injury, as required by section 10.205(a)(2) of OWCP regulations.⁸ The Board therefore finds that appellant is not entitled to continuation of pay.

LEGAL PRECEDENT -- ISSUE 2

An employee seeking benefits under FECA⁹ has the burden of establishing the essential elements of his or her claim by the weight of the reliable, probative, and substantial evidence, including the fact that the individual is an “employee of the United States” within the meaning of FECA and 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 or specific condition for which compensation is claimed is causally related to the employment injury.¹⁰ 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.¹¹

⁴ *Id.* at § 8119(a), (c); *see also* *Gwen Cohen-Wise*, 54 ECAB 732 (2003).

⁵ *Id.* at § 8118(a).

⁶ *See J.L.*, Docket No. 15-0832 (issued July 28, 2015); *P.R.*, Docket No. 08-2239 (issued June 2, 2009); *see also* *W.W.*, 59 ECAB 533 (2008).

⁷ 20 C.F.R. § 10.205(a).

⁸ *See Guy W. Adkins*, Docket No. 94-177 (issued on June 6, 1995) (finding that the notice of traumatic injury claim form was filed, for continuation of pay purposes, on the date reflected in the official supervisor’s report).

⁹ 5 U.S.C. §§ 8101-8193.

¹⁰ *Kathryn Haggerty*, 45 ECAB 383, 388 (1994); *Elaine Pendleton*, 41 ECAB 1143 (1989).

¹¹ *Victor J. Woodhams*, 41 ECAB 345 (1989).

OWCP defines a traumatic injury as, “[A] condition of the body caused by a specific event or incident, or series of events or incidents, within a single workday or shift. Such condition must be caused by external force, including stress or strain which is identifiable as to time and place of occurrence and member or function of the body affected.”¹² To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it must first be determined whether a “fact of injury” has been established. First the employee must submit sufficient evidence to establish that he actually experienced the employment incident at the time, place, and in the manner alleged.¹³ Second, the employee must submit sufficient evidence, generally only in the form a medical evidence, to establish that the employment incident caused a personal injury.¹⁴ A medical report is of limited probative value on a given medical question if it is unsupported by medical rationale.¹⁵ Medical rationale includes a physician’s detailed opinion on the issue of whether there is a causal relationship between the claimant’s diagnosed condition and the implicated employment activity. The opinion of the physician must be based on a complete factual and medical background of the claim, 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 specific employment activity or factors identified by the claimant.¹⁶

ANALYSIS -- ISSUE 2

The Board finds that appellant has not submitted sufficient medical opinion evidence to establish a causal relationship between his diagnosed lumbar sprain or degenerative joint disease of the spine and his accepted March 7, 2014 snowmobile accident.

Appellant alleged that on March 7, 2014 he had a snowmobile accident and fell onto a log in a deep gully injuring his lower back and hip. In support of his claim, he submitted two reports from Dr. Lehmann dated January 9, 2015. Dr. Lehmann noted appellant’s history of injury in March 2014 as a snowmobile accident which resulted in appellant falling on his back onto a log. He diagnosed lumbar sprain and degenerative joint disease of the spine with a possible radicular component since appellant’s March 2014 injury.

Dr. Lehmann provided a consistent history of injury, but failed to provide any medical opinion explaining how appellant’s accident of falling from a snowmobile resulted in the diagnosed conditions of back strain and degenerative joint disease of the spine with a possible radicular component. Without any medical reasoning explaining how or why appellant’s employment incident resulted in either of the diagnosed conditions, these reports are not sufficient to meet appellant’s burden of proof. The Board further notes that Dr. Lehmann did not opine whether appellant’s loss of disc height at L5-S1 was caused or aggravated by his

¹² 20 C.F.R. § 10.5(ee).

¹³ *John J. Carlone*, 41 ECAB 354 (1989).

¹⁴ *J.Z.*, 58 ECAB 529 (2007).

¹⁵ *T.F.*, 58 ECAB 128 (2006).

¹⁶ *A.D.*, 58 ECAB 149 (2006).

employment incident. Due to the lack of medical evidence explaining the nature of the relationship between appellant's diagnosed conditions and his accepted employment incident, appellant has failed to meet his burden of proof in establishing his claim for a traumatic injury.

On appeal appellant alleges that he had no preexisting back symptoms and that he believes additional diagnostic testing would help establish his conditions. Appellant's claim must be established through medical evidence and it is his burden to provide the necessary medical evidence.

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 has not met the criteria for continuation of pay. The Board further finds that appellant has not submitted the necessary medical opinion evidence to establish a causal relationship between his diagnosed conditions and his accepted employment incident on March 7, 2014.

ORDER

IT IS HEREBY ORDERED THAT the January 27 and March 3, 2015 merit decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: November 23, 2015
Washington, DC

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

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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