United States Department of Labor
Employees' Compensation Appeals Board

M.A., Appellant	)	
and	)	**Docket No. 15-1463**
	)	**Issued: October 13, 2015**
DEPARTMENT OF THE ARMY,	)	
Fort Drum, NY, Employer	)	

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

Case Submitted on the Record

DECISION AND ORDER

Before:
PATRICIA H. FITZGERALD, Deputy Chief Judge
COLLEEN DUFFY KIKO, Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On June 29, 2015 appellant filed a timely appeal of a March 2, 2015 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 the case.

ISSUE

The issue is whether appellant has met her burden of proof to establish a traumatic injury in the performance of duty on January 20, 2015.

FACTUAL HISTORY

On January 21, 2015 appellant then a 57-year-old construction control inspector, filed a traumatic injury claim, Form CA-1, alleging that on January 20, 2015, while in the performance of duty, she sustained a low back injury when she was involved in a motor vehicle accident. The other driver was cited. Appellant stopped work on January 20, 2015.

[1] 5 U.S.C. § 8101 *et seq.*

By letter dated January 26, 2015, OWCP advised appellant of the type of evidence needed to establish her claim, particularly requesting that she submit a physician's reasoned opinion addressing the relationship of her claimed condition and specific employment factors.

Appellant submitted reports from Dr. Craig Schiff, an osteopath Board-certified in emergency medicine, dated January 20, 2015. Dr. Schiff noted that appellant was the driver of a car involved in an accident. He noted that she had prior knee surgery. Dr. Schiff opined that appellant did not sustain a traumatic injury. He did not provide a diagnosis and released her to work.

Appellant submitted a January 20, 2015 emergency room report where she was treated by Dr. Schiff post motor vehicle accident where she had reported low back pain radiating down her left leg. Dr. Schiff noted that appellant was ambulatory at the scene, she was not ejected from the car, and did not experience a loss of consciousness. He indicated that her history was significant for three previous knee surgeries and arthritis. Dr. Schiff diagnosed pain currently at the level of 8 out of 10 on a pain scale. He noted that appellant was released with a neck collar and was discharged from his care.

Also submitted was an employing establishment accident report dated January 21, 2015 which noted that appellant was traveling to the barracks to work on locks when she was involved in an automobile accident. The supervisor noted that the accident occurred within appellant's scope of duty. Appellant described that a car shot across in front of the traffic and she struck the left rear. In a public works accident report dated January 20, 2015, appellant's supervisor noted that appellant was on her way to work and was involved in a motor vehicle accident and injured her low back. He noted that she was placed in a neck brace and taken by ambulance to the hospital. Also submitted was a military police report dated January 20, 2015 which noted that on the same day appellant was involved in a motor vehicle accident and the car sustained disabling damage. The law enforcement officer noted that appellant reported low back pain and was transported to the hospital where she was treated and released. A statement by Jason Welch, traffic management and collision investigator, dated January 20, 2015, noted that appellant reported lower back pain and her injury was classified as minor. Appellant was transferred to the emergency room and treated for her injuries and released. Mr. Welch provided a collision scene photograph log.

In a March 2, 2015 decision, OWCP denied the claim as the evidence was insufficient to establish that a medical condition was diagnosed in connection with the claimed event or work factors as described.

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 filed within the applicable time limitation 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 is 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]

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.[3]

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.[4]

ANALYSIS

It is not disputed that on January 20, 2015 appellant was involved in an employment-related motor vehicle accident when a car cut in front of her and she was not able to stop and collided into the rear of the car. However, she has not submitted sufficient medical evidence to support that an injury was causally related to the January 20, 2015 employment incident.

On January 26, 2015 OWCP advised appellant of the type of medical evidence needed to establish her claim. Appellant did not submit a rationalized medical report from an attending physician addressing how specific employment factors may have caused or aggravated her claimed condition.

Appellant submitted an attending physician's report from Dr. Schiff dated January 20, 2015, who noted that appellant was the driver of a car involved in an accident, and noted no traumatic injury. Dr. Schiff diagnosed "evaluation post motor vehicle accident." He indicated that appellant's condition was not caused or aggravated by an employment activity. In a January 20, 2015 emergency room report, Dr. Schiff noted that she was post motor vehicle accident and reported low back pain that radiated down her left leg. He noted that appellant was released with a neck collar. These reports provide no support that the January 20, 2015 motor vehicle accident caused or aggravated a particular medical condition.[5] Instead, Dr. Schiff specifically indicated that the incident did not cause a traumatic injury. Consequently these reports are of no probative value and do not establish appellant's traumatic injury claim.

[2] *Gary J. Watling*, 52 ECAB 357 (2001).

[3] *T.H.*, 59 ECAB 388 (2008).

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

[5] *See A.D.*, 58 ECAB 149 (2006) (medical evidence which does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship).

The record contains no other medical evidence addressing the incident in question. Because appellant has not submitted medical evidence explaining how the January 20, 2015 work incident caused or aggravated a diagnosed medical condition, she has not met her burden of proof.

On appeal, appellant contends that he never received OWCP's January 26, 2015 letter or the March 2, 2015 decision. The record supports that OWCP's January 26, 2015 information letter and the March 2, 2015 decision were sent to appellant at the last known address and does not indicate that it was returned as undeliverable. Under the "mailbox rule," it is presumed, absent evidence to the contrary, that a notice mailed to an individual in the ordinary course of business was received by that individual.[6]

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 meet her burden of proof to establish a traumatic injury in the performance of duty.

[6] *A.C. Clyburn*, 47 ECAB 153 (1995).

ORDER

IT IS HEREBY ORDERED THAT the March 2, 2015 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: October 13, 2015
Washington, DC

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

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board