

ISSUE

The issue is whether appellant met her burden of proof to establish an injury causally related to an April 10, 2015 employment incident.

On appeal counsel argues that appellant has established her claim.

FACTUAL HISTORY

On April 11, 2015 appellant, then a 33-year-old city carrier assistant, filed a traumatic injury claim (Form CA-1) alleging that on April 10, 2015 she suffered a seizure while delivering mail to a home on Church Street and sustained injuries to both shoulders, wrists, and a bruised lip after she fell face down. The employing establishment controverted the claim. It noted that appellant failed to call the employing establishment to report that she had fallen.

By letter dated April 23, 2015, OWCP informed appellant that the evidence of record was insufficient to establish her claim. It noted that the evidence indicated that appellant was injured as a result of a possible idiopathic or unexplained fall. Therefore further information was necessary, including information as to whether she struck any object during her fall. Appellant was advised as to the medical and factual evidence required and afforded 30 days to provide this information.

In response to OWCP's request for additional information, the following medical and factual evidence was received.

The employing establishment submitted an April 25, 2015 investigative memorandum detailing an interview with two postal customers K.R. and E.R. K.R. stated that on his arrival home on April 10, 2015 appellant and other individuals were at his home. Appellant informed him that she had fallen and she appeared dazed. Later that evening she and her husband returned to inform him that her fall was due to a seizure and seizure medication. In her statement, E.R. related that when she went outside to get her mail she saw appellant, who might have fallen on her property, and a male retrieving items from her driveway.

On May 7, 2015 Dr. Jon J. Olenginski, a treating osteopath, diagnosed bilateral shoulder pain with decreased range of motion due to a fall.

In a May 8, 2015 statement, appellant related that she drove herself to work and was given a map and directions for her mail route upon her arrival at the employing establishment. She left the employing establishment and began delivering mail on her assigned route. At the beginning of her route, appellant called her husband to let him know she had arrived safely and where she was, as he was to meet her later to pick up her car. The last thing she recalled prior to passing out was putting mail into a mailbox and then heading down the steps. The next thing appellant remembered was being in the ambulance on the way to the hospital. She stated that her husband had found her lying in a driveway on Church Street and called the employing establishment to notify them.

In May 19, 2015 physical therapy notes, Lee Ann Lloyd, a physical therapist, diagnosed bilateral shoulder pain. Appellant told her that on April 10, 2015 she had a seizure while delivering mail and fell on both arms.

By decision dated June 3, 2015, OWCP accepted that the alleged incident occurred as alleged, but denied appellant's claim because the medical evidence of record failed to establish a diagnosed medical condition causally related to the April 10, 2015 employment incident.

LEGAL PRECEDENT

An employee seeking benefits under FECA⁴ has the burden of proof to establish 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; that an injury was sustained while 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.⁵ These are the essential elements of each and every compensation claim regardless of whether the claim is predicated on a traumatic injury or an occupational disease.⁶

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.⁷ 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.⁸ Second, the employee must submit sufficient evidence, generally only in the form of medical evidence, to establish that the employment incident caused a personal injury.⁹

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence.¹⁰ Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on whether there is a causal relationship between the employee's diagnosed condition and the compensable employment factors.¹¹ The opinion of the physician must be based on a complete factual and medical background of the employee, must be one of reasonable medical certainty,

⁴ *Supra* note 2.

⁵ C.S., Docket No. 08-1585 (issued March 3, 2009); *Bonnie A. Contreras*, 57 ECAB 364 (2006).

⁶ S.P., 59 ECAB 184 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

⁷ B.F., Docket No. 09-60 (issued March 17, 2009); *Bonnie A. Contreras*, *supra* note 5.

⁸ D.B., 58 ECAB 464 (2007); *David Apgar*, 57 ECAB 137 (2005).

⁹ C.B., Docket No. 08-1583 (issued December 9, 2008); *D.G.*, 59 ECAB 734 (2008); *Bonnie A. Contreras*, *supra* note 5.

¹⁰ Y.J., Docket No. 08-1167 (issued October 7, 2008); *A.D.*, 58 ECAB 149 (2006); *D'Wayne Avila*, 57 ECAB 642 (2006).

¹¹ J.J., Docket No. 09-27 (issued February 10, 2009); *Michael S. Mina*, 57 ECAB 379 (2006).

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 employee.¹²

ANALYSIS

Appellant filed a traumatic injury claim alleging bilateral shoulder and wrist injuries, as well as a bruised lip due to falling face down and having a seizure while delivering mail on April 10, 2015. OWCP accepted that the April 10, 2015 incident occurred as alleged, but denied the claim as it found the record contained no diagnosis causally related to the accepted incident. The issue on appeal is whether the medical evidence contains a diagnosis causally related to the April 10, 2015 incident.¹³

The Board finds that appellant has not met her burden of proof to establish an injury causally related to the April 10, 2015 incident.

In support of her claim appellant submitted a May 7, 2015 report from Dr. Olenginski. He diagnosed bilateral shoulder pain due to a fall. The Board finds that Dr. Olenginski's diagnosis of bilateral shoulder pain is a description of a symptom rather than a clear diagnosis of a medical condition.¹⁴ The Board further finds that Dr. Olenginski's finding of decreased range of motion is not a firm medical diagnosis. Therefore, Dr. Olenginski's report is insufficient to establish a medical diagnosis in connection with the injury.

Appellant also submitted a May 19, 2015 physical therapy note by Ms. Lloyd, a physical therapist, who diagnosed bilateral shoulder pain. However, records from a physical therapist do not constitute competent medical opinion evidence in support of causal relationship. A physical therapist is not considered a physician as defined under FECA.¹⁵ Thus, records from the physical therapist are insufficient to establish the claim.¹⁶

On appeal counsel contends that the record contains a February 27, 2015 report from a treating physician diagnosing a medical condition causally related to a February 16, 2015 employment incident. Initially, the Board notes that the instant case concerns an April 10, 2015 employment incident, not a February 16, 2015 employment incident. In addition, the record does

¹² *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 345 (1989).

¹³ While OWCP initially attempted to develop the evidence relative to the issue of idiopathic fall, it accepted that the fall remained unexplained. The Board has previously explained that OWCP has the burden to present medical evidence showing the existence of a personal, nonoccupational pathology. The mere fact that an employee has a preexisting medical condition is insufficient to establish that a fall is idiopathic. *V.B.*, Docket No. 13-2067 (issued February 26, 2014); see *Steven S. Saleh*, 55 ECAB 169 (2003).

¹⁴ *C.B.*, Docket No. 09-2027 (issued May 12, 2010); *Robert Broom*, 55 ECAB 339 (2004). (The Board has consistently held that pain is a symptom rather than a compensable medical diagnosis).

¹⁵ *A.C.*, Docket No. 08-1453 (issued November 18, 2008); *James Robinson, Jr.*, 53 ECAB 417 (2002). Under FECA, a 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. § 8101(2).

¹⁶ *David P. Sawchuk*, 57 ECAB 316 (2006); *Allen C. Hundley*, 53 ECAB 551 (2002); *Lyle E. Dayberry*, 9 ECAB 369 (1998).

not contain a February 27, 2015 medical report. Regardless, such report would be irrelevant to whether appellant sustained a medical condition causally related to an April 10, 2015 employment incident as the record would predate the underlying work incident. As discussed above, the record contains no medical evidence with a diagnosed condition causally related to the April 10, 2015 incident.

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 her burden of proof to establish an injury causally related to an April 10, 2015 employment incident.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated June 3, 2015 is affirmed.

Issued: April 13, 2016
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