United States Department of Labor
Employees' Compensation Appeals Board

J.P., Appellant	)	
and	)	**Docket No. 16-0510**
	)	**Issued: April 22, 2016**
DEPARTMENT OF HOMELAND SECURITY, U.S. SECRET SERVICE, Laurel, MD, Employer	)	

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

Case Submitted on the Record

DECISION AND ORDER

Before:
COLLEEN DUFFY KIKO, Judge
ALEC J. KOROMILAS, Alternate Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On January 26, 2016 appellant filed a timely appeal from a November 5, 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 this case.

ISSUE

The issue is whether appellant met his burden of proof to establish a left upper extremity condition causally related to a June 30, 2015 employment incident.

FACTUAL HISTORY

On July 1, 2015 appellant, a 31-year-old federal police officer, filed a traumatic injury claim (Form CA-1), alleging that he sustained a left upper extremity injury on June 30, 2015 as a result of performing pull-ups while participating in mandatory physical fitness training. The

[1] 5 U.S.C. § 8101 *et seq.*

employing establishment advised that appellant was in the performance of duty. Appellant did not stop work.

An OWCP Form CA-16, authorization for examination, was issued by the employing establishment. Appellant was authorized to visit Johns Hopkins Hospital in Baltimore, Maryland. He submitted two reports dated June 30, 2015 from Dr. Trisha Anest, an emergency medicine specialist. Dr. Anest diagnosed left upper extremity neuropraxia and weakness. She found decreased left hand grip strength. A magnetic resonance imaging (MRI) scan of the cervical spine dated June 30, 2015 showed no significant stenosis. In an attending physician's report, Dr. Anest checked a box marked "yes" indicating her support for causal relationship, noting that the injury occurred while appellant was doing pull-ups in the performance of duty. She provided work restrictions limiting the use of the left upper extremity and advised that appellant was able to resume light-duty work on July 1, 2015.

In a July 23, 2015 letter, OWCP advised appellant of the evidence needed to establish his claim and afforded him 30 days to submit additional evidence and respond to its inquiries.

Subsequently, appellant submitted June 30, 2015 hospital records from Johns Hopkins Hospital. Dr. Linda Regan, a Board-certified emergency medicine physician, asserted that appellant had been involved in rigorous training which involved getting thrown into walls and onto the floor as part of work training exercises. Appellant noted paresthesias to the left shoulder radiating into the back of the upper arm and into his left hand. Upon examination, Dr. Regan found motor deficit and weakness, as well as subjective sensory decrease along the radial and median distribution of his left hand, but not ulnar. Dr. Anest noted that appellant was left-hand dominant and had physical training with pull-ups, but could not complete the training as his left arm was weak. Appellant had reported that he was lifting heavy boxes and had combat training the day before, but without any complaints or pain. A June 30, 2015 computerized tomography (CT) scan of the head/brain showed no evidence of acute intracranial abnormality. A June 30, 2015 MRI scan of the cervical spine demonstrated minimal disc bulges without significant spinal, canal, or neuroforaminal stenosis. An x-ray of the cervical spine dated June 30, 2015 revealed no acute displaced fracture or dislocation.

In a June 30, 2015 report, Dr. Lenora Higginbotham, a neurologist, diagnosed myelopathy *versus* radiculopathy versus peripheral nerve injury, noting that appellant's distribution did not fit one particular nerve. She asserted that appellant presented to the emergency department with complaints of new-onset left upper extremity paresthesias, weakness, and pain. Appellant stated that he was in his usual state of health upon awakening at approximately 4:30 a.m. on the morning of June 30, 2015 and was able to get ready for work without difficulty. He "was driving to work, when all of a sudden he developed left arm tingling ('as if it was asleep') primarily in his triceps extending down throughout his hand/fingers." While at work later in the morning, he then developed shooting pains from his triceps down to his fingers. "Finally, while doing pull-ups, he noticed he was uncharacteristically able to perform two reps before [his] arm/hand tired out." Appellant told his supervisor about his symptoms and was referred to Johns Hopkins Hospital emergency department. He reported that he had been lifting heavy objects and performing rigorous training the day before, but sustained no injuries to the left arm specifically. On August 11, 2015 Dr. Higginbotham noted that appellant continued to suffer pain when his arms were in an abducted and hyperextended

position and while doing push-ups. Despite the pain, appellant was still managing to pass his training drills and would finish training in approximately four weeks. Dr. Higginbotham diagnosed left arm muscle strain and advised that appellant could continue his training with the understanding that his muscle strain would not completely resolve until it was rested.

On August 16, 2015 Dr. Dan Gold, a neurologist, asserted that appellant presented with arm numbness that additionally sounded radicular and now sounded more musculoskeletal. He found that appellant's symptoms had resolved, aside from a residual tenderness to palpation. Dr. Gold found that a neurologic workup was unrevealing and no further testing was indicated.

By decision dated November 5, 2015, OWCP found that the medical evidence was not sufficient to establish a causal relationship between appellant's left upper extremity condition and the June 30, 2015 employment incident.

LEGAL PRECEDENT

An employee seeking benefits under FECA[2] 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[3] was sustained in the performance of duty, as alleged, and that any disability or medical condition for which compensation is claimed is causally related to the employment injury.[4]

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. A fact of injury determination is based on two elements. 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. 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. An employee may establish that the employment incident occurred as alleged but fail to show that his or her condition relates to the employment incident.[5]

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence. 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, and must be supported by medical rationale explaining the

[2] *Id.*

[3] OWCP regulations define 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. 20 C.F.R. § 10.5(ee).

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

[5] *Id.*

nature of the relationship between the diagnosed condition and the specific employment factors identified by the employee.[6]

ANALYSIS

OWCP has accepted that the employment incident of June 30, 2015 occurred at the time, place, and in the manner alleged. The issue is whether appellant's left upper extremity diagnosed condition resulted from the June 30, 2015 employment incident. The Board finds that the medical evidence is insufficient to establish causal relationship.

On June 30, 2015 Dr. Anest found that appellant had decreased left hand grip strength and diagnosed left upper extremity neuropraxia and weakness. She noted that appellant was left-hand dominant and had physical training with pull-ups, but could not complete it due to the weakness of his left arm. Appellant reported that he was lifting heavy boxes and had combat training the day before, but without any complaints or pain. In an attending physician's report, Dr. Anest checked a box marked "yes" indicating her support for causal relationship, noting that the injury occurred while appellant was doing pull-ups in the performance of duty. The Board has held that a physician's opinion that consists of checking a box marked "yes" on a form report, without more in the way of medical rationale, is of diminished probative value in establishing causal relationship.[7] No rationale or explanation was provided by Dr. Anest on the issue of causal relationship.[8] Dr. Anest failed to provide a rationalized opinion explaining how factors of appellant's federal employment, such as lifting heavy boxes, combat training, and doing pull-ups, caused or aggravated his left upper extremity conditions. He noted that appellant's conditions occurred while he was at work, but such generalized statements do not establish causal relationship because they merely repeat appellant's allegations and are unsupported by adequate medical rationale explaining how his physical activity at work actually caused or aggravated the diagnosed conditions.[9] Dr. Anest failed to provide an opinion adequately addressing how the June 30, 2015 work incident contributed to appellant's conditions. Thus, the Board finds that this evidence is insufficient to establish that appellant sustained an employment-related injury.

In her reports, Dr. Higginbotham diagnosed left arm muscle strain and myelopathy *versus* radiculopathy versus peripheral nerve injury, noting that appellant's distribution did not fit one particular nerve. She asserted that appellant presented to the emergency department with complaints of new-onset left upper extremity paresthesias, weakness, and pain. Appellant related that, on the morning of June 30, 2015, he "was driving to work, when all of a sudden he developed left arm tingling ('as if it was asleep') primarily in his triceps extending down throughout his hand/fingers." While at work later in the morning, he then developed shooting pains from his triceps down to his fingers. "Finally, while doing pull-ups, he noticed he was uncharacteristically able to perform two reps before [his] arm/hand tired out." On August 11,

[6] *Id.*

[7] *See Calvin E. King*, 51 ECAB 394 (2000).

[8] *See Sedi L. Graham*, 57 ECAB 494 (2006).

[9] *See K.W.*, Docket No. 10-98 (issued September 10, 2010).

2015 Dr. Higginbotham noted that appellant continued to suffer pain when his arms were in an abducted and hyperextended position and while doing push-ups. She noted that appellant's conditions occurred while he was at work but, as noted above, such generalized statements do not establish causal relationship.[10] Moreover, Dr. Higginbotham failed to provide an opinion regarding the cause of appellant's left arm symptoms. The Board has held that the mere fact that appellant's symptoms arise during a period of employment or produce symptoms revelatory of an underlying condition does not establish a causal relationship between appellant's condition and her employment factors.[11] The Board finds that Dr. Higginbotham did not provide sufficient medical rationale explaining how appellant's left upper extremity conditions were caused or aggravated by doing pull-ups at work on June 30, 2015. Therefore, the Board finds that the reports from Dr. Higginbotham are insufficient to establish causal relationship.

The reports from Drs. Regan and Gold failed to provide a rationalized opinion explaining how the June 30, 2015 work incident caused or contributed to a diagnosed medical condition. Medical evidence that does not offer any opinion regarding the cause of an employee's condition is of diminished probative value on the issue of causal relationship.[12] Thus, the Board finds that this evidence is insufficient to establish that appellant sustained an injury in the performance of duty on June 30, 2015.

The diagnostic studies dated June 30, 2015 are of limited probative medical value as they do not specifically address whether appellant's conditions are attributable to his accepted work incident.[13]

On appeal appellant contends that his injury was work related due to training for his job, noting that he was sent to a neurologist at Johns Hopkins Hospital because the training center medical staff thought he had nerve damage. He indicates that the neurologist ruled out nerve damage after performing several tests. Appellant then followed-up with a sports medicine doctor who diagnosed left shoulder strain, administered a cortisone injection, and recommended physical therapy. The sports medicine doctor states that appellant was currently attending therapy and had notes from his doctor and physical therapist supporting causal relationship.

Based on the reasons stated above, however, the Board finds the medical evidence is insufficient to establish the claim. As appellant has not submitted sufficiently rationalized medical evidence to support his claim that he sustained an injury causally related to the June 30, 2015 employment incident, he has failed to meet his burden of proof. Consequently, the Board will affirm OWCP's November 5, 2015 decision.

[10] *Id.*

[11] *See A.A.*, Docket No. 15-870 (issued March 14, 2016); *Richard B. Cissel*, 32 ECAB 1910, 1917 (1981).

[12] *See L.M.*, Docket No. 16-188 (issued March 24, 2015); *Jaja K. Asaramo*, 55 ECAB 200 (2004).

[13] *See K.W.*, 59 ECAB 271 (2007); *A.D.*, 58 ECAB 149 (2006); *Linda I. Sprague*, 48 ECAB 386 (1997) (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).

The Board also notes that the employing establishment issued appellant a Form CA-16 on June 22, 2015 authorizing medical treatment. The Board has held that where an employing establishment properly executes a Form CA-16, which authorizes medical treatment as a result of an employee's claim for an employment-related injury, it creates a contractual obligation, which does not involve the employee directly, to pay the cost of the examination or treatment regardless of the action taken on the claim.[14] Although OWCP denied appellant's claim for an injury, it did not address whether he was entitled to reimbursement of medical expenses pursuant to the Form CA-16. Upon return of the case record, OWCP should further address this matter.

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 his burden of proof to establish a left upper extremity condition causally related to a June 30, 2015 employment incident.

ORDER

IT IS HEREBY ORDERED THAT the November 5, 2015 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: April 22, 2016
Washington, DC

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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

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

[14] *See D.M.*, Docket No. 13-535 (issued June 6, 2013). *See also* 20 C.F.R. §§ 10.300, 10.304.