

FACTUAL HISTORY

On December 28, 2015 appellant, then a 78-year-old medical records technician, filed a traumatic injury claim (Form CA-1) alleging that on February 25, 2015 he suffered back pain after he fell on ice in the employing establishment parking lot. He submitted no evidence with his claim.

By letter dated February 3, 2016, OWCP informed appellant that he must submit evidence, including medical evidence in support of his claim. Appellant was afforded 30 days to submit this additional evidence.

In response to this letter, appellant submitted a March 20, 2015 memorandum and progress report from Dr. Christopher Rodriguez, an employing establishment health unit osteopathic physician. In the progress report, Dr. Rodriguez noted that appellant came in for a certificate to return to work. He noted that appellant slipped and fell on the ice on February 25, 2015, that he was seen at the Emergency Department, that radiographs of the thoracic spine were obtained, that they revealed no evidence of acute fracture, and he was released to follow up with his physician. Dr. Rodriguez noted that appellant did not return to occupational health until March 19, 2015, at which time the staff recommended that he be evaluated by a workers' compensation provider to continue care. He noted that appellant stated that he was feeling 75 percent better since the injury, but still complained of mild-to-moderate pain and stiffness in his upper back and neck. In the memorandum, Dr. Rodriguez noted that appellant filed a claim for a diagnosis of contusion. He recommended that appellant return to work on March 23, 2015 without restrictions.

By decision dated March 9, 2016, OWCP denied appellant's claim. It found that he had established that the alleged incident occurred as alleged, but that he had not established that he sustained a diagnosed medical condition, causally related to the accepted incident.

LEGAL PRECEDENT

An employee seeking benefits under FECA 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 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.³

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.⁴

³ *Jussara L. Arcanjo*, 55 ECAB 281, 283 (2004).

⁴ *See* Federal (FECA) Procedure Manual, Part 2 -- Claims, *Fact of Injury*, Chapter 2.803(2)(a) (August 2012).

In order to meet the burden of proof to establish the fact that he or she sustained an injury in the performance of duty, an employee must submit sufficient evidence to establish that he or she actually experienced the employment injury or exposure at the time, place, and in the manner alleged.⁵

The second component is whether the employment incident caused a personal injury and generally can be established only by medical evidence.⁶ 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.⁷

ANALYSIS

OWCP found that appellant had established that the incident occurred as alleged. However, it determined that he had failed to submit the necessary medical evidence to establish a diagnosed medical condition or that this condition was causally related to the accepted employment incident of February 25, 2015.

The only medical evidence in the record is the report by the employing establishment's physician, Dr. Rodriguez, who did not form any medical diagnosis or reach any conclusion on causal relationship. Rather, Dr. Rodriguez mainly addressed appellant's ability to return to work. Although he noted that appellant was in pain, pain is a symptom and not a diagnosis of a medical condition.⁸ Even if a medical diagnosis had been obtained, appellant still did not establish that his medical condition was causally related to the employment incident. As previously noted, it is appellant's burden of proof to submit medical evidence which causally related the diagnosed medical condition to the accepted employment incident. The medical evidence required to establish causal relationship is usually rationalized medical evidence.⁹

The Board also notes that, while the record indicates that appellant sought medical treatment at a hospital following the accepted incident, he did not submit any records from his visit to the hospital to OWCP.

An award of compensation may not be based on surmise, conjecture, or speculation.¹⁰ As appellant did not establish that he suffered a medical condition that was causally related to the accepted employment incident, OWCP properly denied his claim.

⁵ *Linda S. Jackson*, 49 ECAB 486 (1998).

⁶ *John J. Carlone*, 41 ECAB 354 (1989); *Horace Langhorne*, 29 ECAB 820 (1978).

⁷ *Judith A. Peot*, 46 ECAB 1036 (1995); *Ruby I. Fish*, 46 ECAB 276 (1994).

⁸ *K.B.*, Docket No. 16-0122 (issued April 19, 2016).

⁹ *Supra* note 6.

¹⁰ *D.I.*, 59 ECAB 158 (2007); *Ruth R. Price*, 16 ECAB 688, 691 (1965).

Appellant may submit additional evidence, together with a written request for reconsideration, to OWCP within one year of the Board's merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.606 and 10.607.

CONCLUSION

The Board finds that appellant did not meet his burden of proof to establish an employment-related injury on February 25, 2015, causally related to the accepted employment incident.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated March 9, 2016 is affirmed.

Issued: August 18, 2016
Washington, DC

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

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

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