United States Department of Labor
Employees' Compensation Appeals Board

S.L., Appellant	)	
and	)	**Docket No. 16-0040**
	)	**Issued: February 24, 2016**
U.S. POSTAL SERVICE, POST OFFICE, San Diego, CA, Employer	)	

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

Case Submitted on the Record

DECISION AND ORDER

Before:
CHRISTOPHER J. GODFREY, Chief Judge
COLLEEN DUFFY KIKO, Judge
ALEC J. KOROMILAS, Alternate Judge

JURISDICTION

On October 18, 2015 appellant filed a timely appeal from a September 16, 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 her burden of proof to establish an injury in the performance of duty on July 30, 2015.

FACTUAL HISTORY

On July 31, 2015 appellant, then a 56-year-old rural carrier, filed a traumatic injury claim (Form CA-1) alleging that on July 30, 2015 she was in a motor vehicle accident when her postal vehicle rolled backwards and the brakes did not respond. She explained that she approached a mailbox which was on a hill and was looking to deliver a parcel when the vehicle began to move

[1] 5 U.S.C. § 8101 *et seq.*

backwards. The brakes were not responding so she attempted to drive forward, causing the vehicle to land on its side. Appellant complained of soreness in her neck and upper arm. She notified her supervisor of the incident on July 30, 2015 and stopped work, and first sought medical treatment on July 31, 2015.

In a July 31, 2015 work status and duty status report (Form CA-17), a physician assistant diagnosed cervicalgia, cervical sprain/strain, muscle spasm of neck, and bilateral thigh stiffness.

In an August 6, 2015 work status report, Dr. Shaheen Zakaria, a treating physician, diagnosed bilateral thigh stiffness, cervical sprain/strain, and muscle spasm of neck. Appellant was released to work without restrictions.

By letter dated August 12, 2015, OWCP notified appellant that the evidence of record was insufficient to support her claim. Appellant was advised of the medical and factual evidence needed and was asked to respond within 30 days.

In an August 6, 2015 medical report, Dr. Zakaria reported that appellant returned for a follow-up visit for an injury sustained on July 30, 2015. She noted the context as motor vehicle accident. Dr. Zakaria diagnosed bilateral thigh stiffness, cervical sprain/strain, and muscle spasm of neck and released appellant to work without restrictions.

By letter dated August 10, 2015, the employing establishment reported that appellant's driving privileges were temporarily suspended because of the July 30, 2015 motor vehicle accident at which she was found at fault based on her failure to follow traffic laws.

In an August 14, 2015 medical report, Dr. Michael Valdez, Board-certified in internal medicine, reported that appellant returned for a follow-up visit from a July 30, 2015 injury. He diagnosed cervicalgia and muscle spasm of the neck. Dr. Valdez noted improvement since the last examination and released appellant to work without restrictions.

By decision dated September 16, 2015, OWCP denied appellant's claim finding that the evidence of record failed to establish that her diagnosed conditions were causally related to the accepted July 30, 2015 employment incident.

LEGAL PRECEDENT

An employee seeking benefits under FECA has the burden 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 or specific condition for which compensation is claimed are causally related to the employment injury.[2] 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.[3]

[2] *Gary J. Watling*, 52 ECAB 278 (2001); *Elaine Pendleton*, 40 ECAB 1143, 1154 (1989).

[3] *Michael E. Smith*, 50 ECAB 313 (1999).

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 which is alleged to have occurred.[4] The second component is whether the employment incident caused a personal injury and generally can be established only by medical evidence.

To establish a causal relationship between the condition, as well as any attendant disability claimed and the employment event or incident, the employee must submit rationalized medical opinion evidence supporting such a causal relationship.[5] 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. This medical opinion must include an accurate history of the employee's employment injury and must explain how the condition is related to the injury. The weight of medical evidence is determined by its reliability, its probative value, its convincing quality, the care of analysis manifested, and the medical rationale expressed in support of the physician's opinion.[6]

ANALYSIS

OWCP accepted that the July 30, 2015 employment incident occurred as alleged. The issue is whether appellant established that the incident caused her injuries. The Board finds that she did not submit sufficient medical evidence to support that she sustained injuries causally related to the July 30, 2015 employment incident.[7]

In support of her claim, appellant submitted an August 6, 2015 medical report from Dr. Zakaria who reported that she had returned for a follow-up visit for an injury sustained on July 30, 2015. Dr. Zakaria noted the context as a motor vehicle accident and diagnosed bilateral thigh stiffness, cervical sprain/strain, and muscle spasm of neck. The Board finds that the opinion of Dr. Zakaria is insufficiently rationalized. Dr. Zakaria failed to provide any details pertaining to the July 30, 2015 employment incident other than generally noting that appellant was involved in a motor vehicle accident. While she provided a firm medical diagnosis, she did not discuss appellant's employment and medical history and did not provide an opinion regarding the cause of her conditions. Without an accurate history of injury, any opinion pertaining to causal relationship is of limited probative value.[8]

[4] *Elaine Pendleton*, *supra* note 2.

[5] *See* 20 C.F.R. § 10.110(a); *John M. Tornello*, 35 ECAB 234 (1983).

[6] *James Mack*, 43 ECAB 321 (1991).

[7] *See Robert Broome*, 55 ECAB 339 (2004).

[8] *John W. Montoya*, 54 ECAB 306 (2003).

Dr. Valdez's August 14, 2015 report is also insufficient to establish appellant's claim. He failed to make any mention of the July 30, 2015 motor vehicle accident and provided no opinion regarding the cause of appellant's injury. 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.[9] As Dr. Zakaria and Dr. Valdez failed to provide a rationalized and detailed discussion of appellant's medical history, the employment incident, and cause of injury, their reports are insufficient to meet appellant's burden of proof.[10]

The remaining evidence of record is also insufficient to establish appellant's claim as the physician assistant's work status reports were not signed by a physician. As registered nurses, physical therapists, and physician assistants, are not considered physicians as defined under FECA, their opinions are of no probative value.[11]

The Board has held that the mere fact that a condition manifests itself during a period of employment does not raise an inference of causal relation.[12] An award of compensation may not be based on surmise, conjecture, speculation, or on the employee's own belief of causal relation.[13] Appellant's honest belief that the July 30, 2015 employment incident caused her medical injury is not in question. But that belief, however sincerely held, does not constitute the medical evidence necessary to establish causal relationship.

In the instant case, the record lacks rationalized medical evidence establishing a causal relationship between the July 30, 2015 employment incident and appellant's injury. Thus, appellant has failed to meet her burden of proof.

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 her burden of proof to establish that she sustained an injury in the performance of duty on July 30, 2015.

[9] *C.B.*, Docket No. 09-2027 (issued May 12, 2010); *S.E.*, Docket No. 08-2214 (issued May 6, 2009).

[10] *S.W.*, Docket 08-2538 (issued May 21, 2009).

[11] *See Roy L. Humphrey*, 57 ECAB 238 (2005). 5 U.S.C. § 8102(2) of FECA provides that the term "physician" includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, and osteopathic practitioners within the scope of their practice as defined by State law.

[12] *Daniel O. Vasquez*, 57 ECAB 559 (2006).

[13] *D.D.*, 57 ECAB 734 (2006).

ORDER

IT IS HEREBY ORDERED THAT the Office of Workers' Compensation Programs' decision dated September 16, 2015 is affirmed.

Issued: February 24, 2016
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