

FACTUAL HISTORY

On February 3, 2015 appellant, a 52-year-old mail handler, filed a traumatic injury claim (Form CA-1) alleging that she sustained injuries to her head on February 3, 2015 as a result of being hit in the back of the head by a postal container while getting mail out of another container. She stopped work on February 3, 2015.

An OWCP Form CA-16, authorization for examination, was issued by the employing establishment on February 3, 2015. Appellant was authorized to visit Dr. Wagdy F. Girgis, a Board-certified family practitioner, in Brooklyn, New York. She submitted a February 9, 2015 attending physician's report from Dr. Girgis noting that appellant got hit in the posterior head at work by equipment and diagnosed head injury and vertigo. In a February 9, 2015 duty status report (Form CA-17), Dr. Girgis noted that the top shelf of a general purpose mail container (GPMC) struck the back of appellant's head on February 3, 2015. He diagnosed headaches and opined that appellant was totally disabled for work.

Appellant further submitted hospital records dated February 4, 2015 from Lutheran Medical Center in Brooklyn, New York, regarding a visit for a lower gastrointestinal (GI) bleed and hypertension.

In a February 18, 2015 letter, OWCP advised appellant of the deficiencies of her claim and afforded her 30 days to submit additional evidence and respond to its inquiries.

Appellant submitted a February 13, 2015 computerized tomography (CT) scan of the brain which revealed a small hematoma in the right occipital scalp and no evidence of intracranial trauma.

In a report dated February 9, 2015, Dr. Girgis diagnosed benign paroxysmal vertigo, benign hypertension, headache, and rectal/anal hemorrhage. He reiterated that appellant was hit with a piece of metal equipment from work on the back of the head resulting in vertigo and headaches. Dr. Girgis explained that appellant tried to visit his office, but did not make it all the way in, fainted, and was taken to the hospital. Appellant experienced rectal bleeding and received a colonoscopy, as well as an esophagogastroduodenoscopy (EGD). On March 2, 2015 Dr. Girgis advised that appellant was totally disabled for work pending neurology clearance.

By decision dated March 26, 2015, OWCP denied appellant's claim because the medical evidence did not establish a medical condition was diagnosed in connection with the accepted event.³

³ On April 1, 2015 appellant filed a recurrence claim (Form CA-2a). In a letter dated April 3, 2015, OWCP advised her that it could not consider a recurrence on a denied claim.

On April 20, 2015 appellant requested a review of the written record by an OWCP hearing representative⁴ and submitted a February 4, 2015 report from Dr. Girgis supporting that appellant had a syncopal episode that same day with profuse bleeding from the rectal area after she was hit on the head with equipment at work the day before on February 3, 2015.

In reports dated March 11 through 23, 2015 Dr. Peiyun Chu, a Board-certified neurologist, reported that appellant presented with a chief complaint of headaches after a work-related injury. He noted that according to appellant she was in her usual state of health until February 3, 2015 when she was getting the mail from a metal post cart and a piece of the cart fell down on her head and hit the back of her head. Appellant had a CT scan of the brain, which showed a small scalp hematoma in the back of her head. She denied any loss of consciousness at the time of the incident, however, she experienced intermittent headaches since the injury. Dr. Chu diagnosed “persistent headaches after head trauma, possibly representing mild postconcussion syndrome” and opined that the small scalp hematoma had resolved because he did not feel any hematoma or swelling on the scalp upon examination. In a March 19, 2015 attending physician’s report, Dr. Chu diagnosed postconcussion syndrome and opined that appellant was totally disabled for work for the period February 3 to March 24, 2015. He advised that appellant was capable of returning to work effective March 24, 2015.

By decision dated September 17, 2015, an OWCP hearing representative affirmed the March 26, 2015 denial of the claim finding that the medical evidence was insufficient to establish a causal relationship between appellant’s diagnosed conditions and the February 3, 2015 employment incident.

LEGAL PRECEDENT

An employee seeking benefits under FECA⁵ 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 injury⁶ 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.⁷

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

⁴ On April 27, 2015 appellant requested authorization for a CT scan of the head/brain without dye. In a letter dated August 4, 2015, OWCP denied authorization because the evidence on file did not explain how the need for the procedure resulted from factors of appellant’s federal employment.

⁵ 5 U.S.C. § 8101 *et seq.*

⁶ 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).

⁷ *See T.H.*, 59 ECAB 388 (2008).

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 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 her condition relates to the employment incident.⁸

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 nature of the relationship between the diagnosed condition and the specific employment factors identified by the employee.⁹

ANALYSIS

OWCP has accepted that the employment incident of February 3, 2015 occurred at the time, place, and in the manner alleged. The issue is whether appellant's head and brain conditions resulted from the February 3, 2015 employment incident. The Board finds that appellant did not meet her burden of proof to establish a causal relationship between the conditions for which compensation is claimed and the employment incident.

In his reports, Dr. Chu diagnosed postconcussion syndrome and opined that appellant was totally disabled for work for the period February 3 to March 24, 2015. He noted that appellant sustained an employment injury on February 3, 2015 when she was getting the mail from a metal post cart and a piece of the cart fell down on her head and hit the back of her head. Appellant had a CT scan of the brain, which showed a small scalp hematoma in the back of her head, and complained of persistent headaches. Dr. Chu opined that the small scalp hematoma had resolved because he did not feel any hematoma or swelling on the scalp upon examination and advised that appellant was capable of returning to work effective March 24, 2015. He did not provide sufficient medical rationale explaining the mechanism of how appellant's postconcussion syndrome was caused or aggravated by being hit on the back of the head on February 3, 2015. Dr. Chu's opinion was based, in part, on temporal correlation. However, the Board has held that neither the mere fact that a disease or condition manifests itself during a period of employment nor the belief that the disease or condition was caused or aggravated by employment factors or incidents is sufficient to establish a causal relationship.¹⁰ Dr. Chu did not otherwise sufficiently explain the reasons why diagnostic testing and examination findings led him to conclude that the February 3, 2015 incident at work caused or contributed to the diagnosed condition. Thus, the Board finds that the reports from Dr. Chu are insufficient to establish that appellant sustained an employment-related injury.

⁸ *Id.*

⁹ *Id.*

¹⁰ *E.J.*, Docket No. 09-1481 (issued February 19, 2010).

Dr. Girgis asserted that appellant was hit on the posterior head by a general purpose mail container at work on February 3, 2015 and diagnosed vertigo and headaches. He further indicated that on February 4, 2015 appellant attempted to visit his office, but fainted on the way in and was taken to the hospital and diagnosed with syncopal episode and rectal/anal hemorrhage. Dr. Girgis opined that appellant was totally disabled for work. The Board finds that Dr. Girgis failed to provide a rationalized medical opinion explaining how factors of appellant's federal employment, such as being hit on the back of the head at work, caused or aggravated her head and brain conditions. Dr. Girgis noted that appellant's conditions occurred while she 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 her physical activity at work actually caused or aggravated the diagnosed conditions.¹¹ He failed to provide an opinion adequately addressing how the February 3, 2015 employment incident contributed to appellant's conditions. Thus, the Board finds that the reports from Dr. Girgis are insufficient to establish that appellant sustained an employment-related injury.

The hospital records dated February 4, 2015 diagnosed a lower GI bleed and hypertension but did not specifically address whether the February 3, 2015 employment incident caused or contributed to the diagnosed conditions. 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, appellant has not met her burden of proof with this evidence.

The February 13, 2015 CT scan of the brain is of limited probative medical value as it does not specifically address whether appellant's head and brain conditions are attributable to her accepted work injury.¹³

On appeal, appellant reiterated the factual history of her claim and submitted new medical evidence. However, she has not submitted any rationalized medical evidence to support her allegation that she sustained an injury causally related to the February 3, 2015 employment incident and failed to meet her burden of proof to establish a claim for compensation.

The Board also notes that the employing establishment issued appellant a Form CA-16 on February 3, 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

¹¹ See *K.W.*, Docket No. 10-98 (issued September 10, 2010).

¹² *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).

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

not address whether she is entitled to reimbursement of medical expenses pursuant to the Form CA-16. Upon return of the case record, OWCP should further address this issue.

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 that her head and brain conditions are causally related to a February 3, 2015 employment incident. On return of the record, OWCP should consider the Form CA-16 issued in this case.

ORDER

IT IS HEREBY ORDERED THAT the September 17, 2015 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: March 24, 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