United States Department of Labor
Employees' Compensation Appeals Board

D.B., Appellant	)	
and	)	
DEPARTMENT OF THE ARMY, ARMY NATIONAL GUARD, KANSAS NATIONAL GUARD -- JOINT FORCES HEADQUARTERS, Topeka, KS, Employer	)	**Docket No. 16-1219** **Issued: November 8, 2016**

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

Case Submitted on the Record

DECISION AND ORDER

Before:
PATRICIA H. FITZGERALD, Deputy Chief Judge
COLLEEN DUFFY KIKO, Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On May 18, 2016 appellant filed a timely appeal from an April 14, 2016 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 to consider the merits of the case.

ISSUE

The issue is whether appellant met his burden of proof to establish an injury causally related to an accepted August 8, 2013 employment incident.

On appeal, appellant alleges that he was instructed to file a Form CA-1 for payment of his medical expenses instead of submitting the medical bills to his health insurance carrier.

[1] 5 U.S.C. § 8101 *et seq.*

FACTUAL HISTORY

On August 8, 2013 a traumatic injury claim (Form-CA-1) was filed on behalf of appellant, then a 33-year-old facility plans and program management specialist, alleging that on that date he lost consciousness twice while trying to stand up after donating blood. He was transferred to a hospital for medical evaluation. Appellant returned to work on August 9, 2013.

An August 8, 2013 patient care report signed by a paramedic and an emergency medical technician (EMT), revealed that appellant had a syncopal episode while donating blood. They related that, upon their arrival at the employing establishment, appellant was resting on a cot, and he showed some improvement enroute to the St. Francis emergency room.

Appellant was seen at St. Francis Health Center by Dr. Rebecca Hierholzer, a physician Board-certified in emergency medicine, who noted her impression as vasovagal syncope. Dr. Hierholzer noted that appellant stated that he was okay when the needle was placed in his arm to draw blood, but when he pumped his arm he started feeling lightheaded and when he started to sit up he passed out. Appellant noted that he was given a drink and cookies, but he continued to feel lightheaded and dizzy.

Appellant submitted x-ray reports of his right ankle, right knee, and lumbosacral spine taken on July 3, 2014 by Dr. Matthew S. Malmstrom, an osteopathic diagnostic radiologist. The x-rays of the right ankle and right knee were interpreted as revealing normal findings. The x-ray of the lumbosacral spine was interpreted as revealing mild L5-S1 disc degeneration.

By letter to appellant dated March 14, 2016, OWCP indicated that when appellant's claim was received, it appeared to be a minor injury that resulted in minimal or no lost time from work, that the employing establishment did not controvert the claim, and that based on these criteria, the payment of a limited amount of medical expenses was approved. However, it noted as the medical bills now exceeded $1,500.00, further medical evidence was necessary to support his claim. Appellant was afforded 30 days to submit evidence including a rationalized medical report from a physician explaining how the employment incident caused a diagnosed condition. OWCP did not receive a response.

By decision dated April 14, 2016, OWCP denied appellant's claim as the medical evidence did not demonstrate that a medical condition was causally related to the accepted employment incident.

LEGAL PRECEDENT

An employee seeking benefits under FECA 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 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.[2]

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.[3] In order to meet his or her 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.[4]

The second component is whether the employment incident caused a personal injury and generally can be established only by medical evidence.[5] 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.[6]

ANALYSIS

There is no dispute that the incident occurred as alleged, *i.e.*, that appellant donated blood on August 8, 2013, and that he has established a medical diagnosis, *i.e.*, vasovagal syncope. He has also submitted x-ray evidence of mild L5-S1 disc degeneration. OWCP denied appellant's claim as he failed to provide a rationalized medical opinion establishing causal relationship between the accepted employment incident and the medical diagnoses.

Appellant submitted a note from the paramedic and EMT who responded on August 8, 2013. However, this report does not constitute medical evidence as neither a paramedic nor an EMT are qualified to provide a medical opinion under FECA.[7]

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[2] *Jussara L. Arcanjo*, 55 ECAB 281, 283 (2004).

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

[4] *Linda S. Jackson*, 49 ECAB 486 (1998).

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

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

[7] 5 U.S.C. § 8101(2) of FECA provides as follows: a physician includes surgeons, podiatrist, dentists, clinical psychologists, optometrist, chiropractors, and osteopathic practitioners within the scope of their practice as defined by State law. Lay individuals are not competent to render a medical opinion under FECA. *See David P. Sawchuk*, 57 ECAB 316, 320 n.11 (2006).

The August 8, 2013 report of Dr. Hierholzer noted the employment incident and related that appellant had a vasovagal syncope, but failed to provide a well-rationalized opinion explaining causal relationship between the accepted employment incident and the medical diagnosis.[8]

The July 3, 2014 x-rays from Dr. Malmstrom noted an impression of mild L5-S1 disc degenerative disease, but offered no medical opinion regarding the cause of this diagnosed condition. 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]

In a similar case, *Michael John Zenker*,[10] the claimant fainted while donating blood and allegedly sustained tailbone and neck injuries. The Board found that the claimant had not met his burden of proof as he has not submitted a report containing a physician's opinion, supported by medical rationale and based on a complete history, explaining how and why donating blood at work resulted in the fainting incident which led to his lower back injury.

Similarly, in this case the record is without a well-rationalized medical opinion establishing that the diagnosed conditions of syncope were causally related to the accepted August 8, 2013 employment incident. OWCP advised appellant that it was his responsibility to provide a comprehensive medical report explaining how the diagnosed medical condition was caused by the accepted employment incident. Appellant failed to submit appropriate medical documentation in response to OWCP's request.[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 upon appellant's own belief that there was a causal relationship between his or her condition and his or her employment.[13] Causal relationship must be based on rationalized medical opinion evidence.[14] As appellant did not submit a rationalized medical opinion supporting that his medical conditions were causally related to the accepted August 8, 2013 employment incident, he did not meet his burden of proof to establish an employment-related traumatic injury.

[8] *Supra* note 6.

[9] *L.L.*, Docket No. 16-0896 (issued September 13, 2016).

[10] Docket No. 93-1363 (issued September 8, 1994).

[11] *See T.H.*, Docket No. 15-0772 (issued May 12, 2016).

[12] *L.D.*, Docket No. 09-1503 (issued April 15, 2010); *D.I.*, 59 ECAB 158 (2007); *Daniel O. Vasquez*, 57 ECAB 559 (2006).

[13] *Patricia J. Glenn*, 53 ECAB 159, 160 (2001).

[14] *M.E.*, Docket No. 14-1064 (issued September 29, 2014).

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 an injury causally related to an accepted August 8, 2013 employment incident.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated April 14, 2016 is affirmed.

Issued: November 8, 2016
Washington, DC

Patricia H. Fitzgerald, Deputy Chief Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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