

FACTUAL HISTORY

On October 23, 2015 appellant, then a 60-year-old paralegal analyst, filed a traumatic injury claim (Form CA-1) alleging that she sustained left knee, left hand, and cervical and lumbar spine injuries on October 19, 2015 when she slipped and fell on a hallway floor after her “right leg went out from under her,” landing on her left hand and knee. She felt pain in her “neck, lower back, left hand, knees, and legs,” most prominent in the right knee. Appellant stopped work briefly on October 23, 2015 and returned to work the same day.

On November 4, 2015 appellant’s supervisor confirmed appellant’s account of events. However, in a November 16, 2015 letter, the supervisor noted that appellant had requested continuation of pay from November 9 to 13, 2015, but had not provided any medical evidence.³

Appellant submitted April 8 and October 26, 2015 reports signed by Edward C. Savarese, a physician assistant. Mr. Savarese reported right knee strain and degenerative arthritis. Appellant also submitted physical therapy records.

In a November 23, 2015 report, Dr. Evan Karas, an attending Board-certified orthopedic surgeon, diagnosed right knee arthritis, aggravated by the October 19, 2015 injury. He administered a cortisone injection.

On January 5, 2016 Dr. Seth P. Shifrin, an attending Board-certified internist, diagnosed sciatica. He prescribed physical therapy, authorized by OWCP. Appellant provided physical therapy notes.

In a January 27, 2016 letter, OWCP advised appellant of the additional evidence needed to establish her claim, including a report from her attending physician explaining how and why the October 19, 2015 incident would cause the claimed condition.

In response, appellant submitted a second January 5, 2016 report from Dr. Shifrin diagnosing bilateral low back pain with right-sided sciatica, related to the October 19, 2015 fall. Dr. Shifrin obtained January 5, 2016 lumbar x-rays demonstrating mild-to-moderate dextroscoliosis, and degenerative changes with severe disc space narrowing at L5-S1.

Sabana R. Sunesara, a physician assistant, provided a January 20, 2016 report. He obtained x-rays, interpreted by a physician, showing no acute fracture, dislocation, or subluxation of the right hip, right knee, and lumbar spine. In another January 20, 2016 report, Dr. Farrukh N. Jafri, an emergency medicine physician, advised that appellant complained of low back, right hip, and right pelvis pain after a mechanical trip and fall. He diagnosed back strain from an unspecified fall.

In a January 25, 2016 report, Dr. Stacy S. Gross, an attending Board-certified physiatrist, provided a history of injury and treatment. She diagnosed a partial tear of the right hamstring, and right sacroiliitis.

³ On December 30, 2015 appellant claimed compensation from October 19 to December 30, 2015.

In a February 4, 2016 statement, appellant explained that she was in the performance of duty on the employing establishment premises when she fell on October 19, 2015.

By decision dated March 2, 2016, OWCP denied appellant's claim, finding that causal relationship was not established. It accepted that the October 19, 2015 incident occurred at the time, place, and in the manner alleged. However, the medical evidence did not contain sufficient explanation supporting that the accepted fall caused an aggravation of right knee arthritis, knee strains, a right hamstring tear, right sacroiliitis, right-sided sciatica, or mild-to-moderate dextroscoliosis. OWCP noted that the reports of physician assistants and physical therapists were not considered medical evidence under FECA.

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 filed within the applicable time limitation, that an injury was sustained while 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.⁴ 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.⁵

In order to determine whether an employee sustained a traumatic 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 that must be considered conjunctively. First, the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident that is alleged to have occurred.⁶ An employee has not met his or her burden of proof in establishing the occurrence of an injury when there are such inconsistencies in the evidence as to cast serious doubt upon the validity of the claim.⁷ 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.⁸

The medical evidence required to establish causal relationship is generally rationalized medical opinion 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

⁴ *Joe D. Cameron*, 41 ECAB 153 (1989).

⁵ *See Irene St. John*, 50 ECAB 521 (1999); *Michael E. Smith*, 50 ECAB 313 (1999).

⁶ *Gary J. Watling*, 52 ECAB 278 (2001).

⁷ *S.N.*, Docket No. 12-1222 (issued August 23, 2013); *Tia L. Love*, 40 ECAB 586, 590 (1989).

⁸ *Deborah L. Beatty*, 54 ECAB 340 (2003).

rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.⁹

ANALYSIS

Appellant claimed that she sustained bilateral knee, lower extremity, left hand, and cervical and lumbar spine injuries when she slipped and fell on a hallway floor on October 19, 2015. In support of her claim, she submitted a November 23, 2015 report from Dr. Karas, an attending Board-certified orthopedic surgeon, diagnosing right knee arthritis aggravated by the October 19, 2015 injury. On January 5, 2016 Dr. Shifrin, an attending Board-certified internist, diagnosed bilateral low back pain with right-sided sciatica, related to the October 19, 2015 fall. Dr. Gross, an attending Board-certified physiatrist, opined on January 25, 2016 that appellant had sustained a partial tear of the right hamstring, and right sacroiliitis. While appellant's physicians indicated that the October 19, 2015 fall caused the diagnosed conditions, they did not explain how and why the incident would cause lumbar pain, sciatica, a partial hamstring tear, sacroiliitis, or an aggravation of right knee arthritis. They did not describe how the stresses and impact of the accepted incident were competent to produce those injuries. In the absence of such rationale, their opinions are insufficient to meet appellant's burden of proof.¹⁰

A January 20, 2016 report from Dr. Jafri indicates that appellant had a low back strain from an unspecified fall, but he did not reference the October 19, 2015 work incident as a cause of her diagnosed condition. Thus, this report is of limited probative value in establishing appellant's claim.

Appellant also submitted reports from several physician assistants and a physical therapist. However, the reports of physician assistants and physical therapists are of no probative value as physician assistants and physical therapists are not considered physicians under FECA.¹¹

OWCP advised appellant by January 27, 2016 letter of the necessity of providing her physician's well-reasoned opinion explaining how and why the accepted October 19, 2015 fall would cause any of the diagnosed conditions. As appellant did not submit such evidence, she has failed to meet her burden of proof.

On appeal, appellant contends that Dr. Karas approved Mr. Savarese's reports. The Board notes, however, that there is no indication of record that Mr. Savarese's reports were signed or reviewed by a physician.

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.

⁹ *Solomon Polen*, 51 ECAB 341 (2000).

¹⁰ *Supra* note 7.

¹¹ 5 U.S.C. § 8101(2); *Richard E. Simpson*, 57 ECAB 668 (2006); *Vickey C. Randall*, 51 ECAB 357 (2000).

CONCLUSION

The Board finds that appellant has not met her burden of proof to establish that she sustained traumatic left knee, left hand, and cervical and lumbar spine injuries causally related to an October 19, 2015 employment incident.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated March 2, 2016 is affirmed.

Issued: November 15, 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