

experienced an anxiety attack and fell to the floor, injuring her head, neck, back, and shoulder. She stopped work on November 3, 2014.

Appellant asserted in a statement attached to the form that she experienced anxiety after being involved in a heated conversation with her supervisor, who was verbally abusive and physically intimidated her, and that she subsequently lost consciousness. She related that she was walking past her supervisor's office when her supervisor called her name and told her to come into her office. The supervisor then told appellant that she understood that appellant was upset on Friday, and she then asked whether appellant was upset for having to take annual leave to attend continuing legal education (CLE) training. Appellant related that she replied that she did not know she had to take annual leave to attend the CLE training, but that she requested leave, as told. She asserted that her supervisor's voice became loud and her tone became extremely harsh. Appellant was then told that she should have known because she attended CLE last year and was told that she needed to get permission to attend. She related that she told her supervisor that she remembered that she had to change her leave to administrative leave last year, and that she now knew the proper procedure and had complied.

Appellant related that her supervisor became enraged and yelled, "leaving to attend a CLE without permission is like stealing time from the government." She alleged that when she again defended her actions her supervisor stood up, moved from behind her desk, hovered over appellant yelling, "you learned nothing at the CLE that would be helpful to the employing establishment as a paralegal." Appellant alleged that she began to cry and her supervisor screamed, "Why are you crying?" to which appellant responded "I'm a sensitive person."

When appellant asked her supervisor if she could leave the room and return to her office, the supervisor moved and stood in front of her office door and blocked the path, refusing to let appellant exit her office. Appellant alleged that she was standing while her supervisor ranted that she should not be crying and should not have been upset. She felt threatened and scared for her safety, she then lost consciousness and passed out and fell down hard on the floor. When appellant awakened she was lying on the floor with her entire body and head in excruciating pain. At that point someone called 911 and took her to the hospital in an ambulance. An incident report submitted with the claim noted that appellant passed out and fell to the floor on November 3, 2014.

On December 12, 2014 OWCP advised appellant that it required factual and medical evidence to determine whether she was eligible for compensation benefits. It asked her to submit a comprehensive report from a treating physician describing her symptoms and the medical reasons for her condition, with an opinion as to whether her claimed condition was causally related to her federal employment. OWCP afforded appellant 30 days to submit this evidence.

In a December 19, 2014 statement, appellant's supervisor rebutted her allegations that she engaged in abusive conduct which caused appellant to experience anxiety and lose consciousness on November 3, 2014. She asserted that she was not responsible for appellant's dropping to the floor in her office. The supervisor denied that she hovered over appellant, that she moved and stood in front of her door and blocked appellant's path, refusing to allow her to exit her office, and denied that she yelled, shouted and screamed at appellant. She advised that there were three coworkers who were sitting close to her office who would have overheard her yelling, shouting,

and screaming at appellant. The supervisor related that she had asked appellant to appear in her office to speak with her about three issues concerning her leave and attendance and office conduct. After discussing these three issues with appellant, appellant asked her supervisor whether she was finished, and she responded that she was. The supervisor denied appellant's assertion that she moved and stood in front of her office door and blocked her path, refusing to let appellant exit her office. She related that after appellant left her office she heard her fall, went out to assist her, and then called 911 and waited for paramedics to attend to appellant.

In a January 9, 2015 report, Dr. Henry Stamps, a specialist in internal medicine, noted that he had been treating appellant since November 5, 2014 for acute stress reaction and concussion following a syncope episode. He reported that the syncope occurred at work after appellant had a hostile encounter at work with her immediate supervisor. Dr. Stamps noted that when he first saw appellant on November 5, 2014 she was having trouble expressing herself because she was experiencing stress. He reported that she was in severe pain. Dr. Stamps prescribed pain medication and muscle relaxers. He asserted that appellant returned on November 11, 2014 because her condition had not greatly improved. Dr. Stamps adjusted her medication regimen and referred her to physical therapy for neck and back pain. He advised that despite undergoing physical therapy appellant returned for further treatment on November 25, 2014, as she was still complaining of pain and headaches. Dr. Stamps opined that more leave time was warranted. He related that appellant had since recovered and had been able to return to work since December 18, 2014.

By decision dated January 20, 2015, OWCP denied the claim, finding that the alleged incident occurred in the performance of duty and that appellant had been diagnosed with syncope, but that appellant failed to submit sufficient medical evidence to establish that the accepted incident caused her diagnosed condition.

By letter dated September 18, 2015, appellant requested reconsideration of the January 20, 2015 decision.

In an April 13, 2015 report, received by OWCP on September 29, 2015, Dr. Stamps advised that, after reviewing appellant's medical records from her November 3, 2014 emergency room visit and his November 5, 2014 examination, he had diagnosed appellant with an acute stress reaction following a syncope in which she suffered a concussion. He reported that on November 3, 2014 appellant fainted, had an acute stress reaction and fell at work during a hostile confrontation from her supervisor. Dr. Stamps advised that syncope occurs under fear and emotional distress; appellant's laboratory reports hours after she had a hostile confrontation at work showed that she was still under such stress that her heart rhythms displayed sinus tachycardia, nonspecific T-wave abnormalities, and an abnormal electrocardiogram upon first review; appellant also had poor R-wave progression. He opined that these findings revealed an acute stress reaction which could occur as a result of a hostile confrontation at work and from a traumatic fall. During the November 25, 2014 visit, Dr. Stamps advised her that her syncope was due to the acute stress reaction which occurred as a direct result from the hostile confrontation from her supervisor. He opined that the hostile confrontation placed appellant under fear and emotional distress which caused her syncope and an acute stress reaction and a concussion.

By decision dated December 31, 2015, OWCP denied modification of the January 20, 2015 decision. It found that Dr. Stamp's reports were not based on an accurate history of injury as there were inconsistencies of record as to the events of November 3, 2014.

LEGAL PRECEDENT

An employee seeking benefits under FECA² has the burden of establishing that 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.³ 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.⁴

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. First, the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time, place, and in the manner alleged.⁵ 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.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

OWCP has the burden of proof to submit medical evidence showing the existence of a personal, nonoccupational pathology if it chooses to make a finding that a given fall is idiopathic in nature. The fact that the cause of a particular fall cannot be determined does not establish that it was due to an idiopathic condition and if the record does not establish a particular fall was due to an idiopathic condition, it must be considered as merely an unexplained fall, which is covered under FECA.⁸

² 5 U.S.C. § 8101 *et seq.*

³ *Joe D. Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁴ *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁵ *John J. Carlone*, 41 ECAB 354 (1989).

⁶ *Id.* For a definition of the term "injury," see 20 C.F.R. § 10.5(a)(14).

⁷ *Id.*

⁸ *See T.S.*, Docket No. 26-0113 (issued May 3, 2016).

ANALYSIS

OWCP accepted that an incident occurred on November 3, 2014 and that appellant fell; it did not accept that she sustained syncope causally related to employment factors. The Board finds that the case is not in posture for decision.

While OWCP initially found in the January 20, 2015 decision that the incident occurred as alleged, it also found that the medical evidence of record did not establish that the accepted incident caused appellant's diagnosed condition. Appellant thereafter submitted additional reports from Dr. Stamps which were generally supportive of appellant's claim. OWCP then denied the claim finding that Dr. Stamps' reports were not based on an accurate history of injury as there were inconsistencies in the record as to the incident of November 3, 2014. It however never made any findings as to the nature and circumstances of the accepted incident, and did not explain the inconsistencies of record. The Board also notes that OWCP never evaluated whether appellant's fall on November 3, 2014 was an idiopathic or unexplained fall.⁹

Appellant submitted reports from Dr. Stamps, who opined that the syncope occurred at work after she had a hostile encounter at work with her immediate supervisor. Dr. Stamps noted that when he first saw appellant on November 5, 2014 she was having trouble expressing herself because she was experiencing stress. He reported that she was in severe pain, he prescribed pain medication and muscle relaxers. Dr. Stamps asserted that appellant returned on November 11, 2014 because her condition had not greatly improved. He adjusted her medication regimen and referred her to physical therapy for neck and back pain. Dr. Stamps advised that despite undergoing physical therapy appellant returned for further treatment on November 25, 2014, as she was still complaining of pain and headaches. He opined that more leave time was warranted. Dr. Stamps related that appellant had since recovered and had been able to return to work since December 18, 2014. In his April 13, 2015 report, he advised that, after reviewing appellant's medical records from her November 3, 2014 emergency room visit and his November 5, 2014 examination, he had diagnosed appellant with an acute stress reaction following a syncope in which she suffered a concussion. Dr. Stamps reported that on November 3, 2014 appellant fainted, had an acute stress reaction and fell at work during a hostile confrontation from her supervisor. He advised that syncope occurs under fear and emotional distress; appellant's laboratory reports hours after she had a hostile confrontation at work showed that she was still under such stress that her heart rhythms displayed sinus tachycardia, nonspecific T-wave abnormalities, and an abnormal electrocardiogram upon first review; appellant also had poor R-wave progression. Dr. Stamps opined that these findings revealed an acute stress reaction which could occur as a result of a hostile confrontation at work and from a traumatic fall. During November 25, 2014 visit, he advised her that her syncope was due to the acute stress reaction which occurred as a direct result from the hostile confrontation from her supervisor. Dr. Stamps opined that the hostile confrontation placed appellant under fear and emotional distress which caused her syncope and an acute stress reaction and a concussion.

Proceedings under FECA are not adversarial in nature nor is OWCP a disinterested arbiter. While the claimant has the burden to establish entitlement to compensation, OWCP

⁹ See *L.R.*, Docket No. 15-0255 (issued April 1, 2015).

shares responsibility in the development of the evidence to see that justice is done.¹⁰ While Dr. Stamp's reports do not contain sufficient rationale to discharge appellant's burden of proving by the weight of the reliable, substantial, and probative evidence that her syncope condition and were caused by the accepted employment incident, his reports raise an inference of causal relationship sufficient to require further development of the case record by OWCP.¹¹

If however the cause of the fall cannot be determined or the reason it occurred cannot be explained, then it is an unexplained fall and any resulting injury would be compensable. The burden of proof is on OWCP to establish that the fall was idiopathic.¹²

On return of the case record OWCP shall prepare a statement of accepted facts and refer appellant to a second opinion physician to determine whether her interaction with her supervisor on November 3, 2014 caused a syncopal episode, fall and resulting injuries. In the alternative, the second opinion physician should be asked for an opinion as to whether appellant's fall was idiopathic or unexplained in nature. After such further development as necessary, OWCP shall issue a *de novo* decision.

CONCLUSION

The Board finds that this case is not in posture for decision.

¹⁰ *William J. Cantrell*, 34 ECAB 1223 (1983). See also *J.S.*, Docket No. 13-2022 (issued July 28, 2014).

¹¹ See *John J. Carlone*, *supra* note 5; *Horace Langhorne*, 29 ECAB 820 (1978).

¹² *Supra* note 9.

ORDER

IT IS HEREBY ORDERED THAT the December 31, 2015 decision of the Office of Workers' Compensation Programs is set aside and this case is remanded for further proceedings consistent with this decision.

Issued: October 17, 2016
Washington, DC

Patricia H. Fitzgerald, Deputy 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