

ISSUE

The issue is whether appellant met his burden of proof to establish an injury to the right buttocks causally related to the accepted January 18, 2014 employment incident.

FACTUAL HISTORY

On February 12, 2014 appellant, then a 57-year-old mail processing equipment mechanic, filed a traumatic injury claim (Form CA-1) alleging that on January 18, 2014 he sustained an injury to his right buttocks as a result of slipping and falling on an ice-covered employing establishment sidewalk. The employing establishment controverted the claim in a letter dated February 13, 2014, noting that appellant had waited to report the injury for 23 days and that he had not provided any medical evidence to establish a causal relationship between the incident of January 18, 2014 and any diagnosed medical condition.

By letter dated February 24, 2014, OWCP requested that appellant submit additional factual and medical evidence in support of his claim, and afforded him 30 days to submit such evidence. It also requested that appellant respond to a questionnaire. Appellant did not respond.

By decision dated March 28, 2014, OWCP denied appellant's claim, finding that he had not established fact of injury as the evidence of record was insufficient to establish that the claimed incident occurred as alleged.

On March 27, 2015 appellant, through counsel, requested reconsideration of OWCP's March 28, 2014 decision. With the request, appellant attached hospital records, reports from physicians, and results of diagnostic tests.

In an emergency department note dated January 24, 2014, Dr. Jawaid Akhtar, Board-certified in colon and rectal surgery, noted that appellant had arrived at the emergency room with a gluteal infection following a fall. He noted that appellant was diabetic, and that a computerized tomography scan of the pelvis showed evidence of induration with few gas locules, which was concerning for necrotizing fasciitis. Dr. Akhtar diagnosed appellant with a perigluteal infection with possible necrotizing fasciitis.

On January 27, 2014 Dr. Erica Coffin, an anesthesiologist, noted that appellant slipped on ice on Saturday, January 18, 2014, landing on his knees, and then falling on his buttocks. She noted that appellant began to feel stiffness in his legs and soreness in his buttocks two days later. The next day, Tuesday, January 21, 2014, he left work due to increasing pain and fevers that persisted over the next two days. On Friday, January 24, 2014 the pain acutely worsened with increasing stiffness, and appellant visited his primary care physician, who directed him to the hospital. Appellant was evaluated in a hospital emergency department and was found to have severe sepsis.

In a progress note dated February 13, 2014, Dr. Graciela Bauza, a Board-certified surgeon, diagnosed appellant with an ischioanal abscess and fistula. She noted that appellant had undergone several surgical procedures to treat this condition between January 24 and

February 12, 2014. Appellant had been hospitalized since January 24, 2014, first in the intensive care unit (ICU), and then was transferred to a monitored floor bed on February 2, 2014.

In a narrative report dated November 13, 2014, Dr. Bauza stated that appellant had arrived at the emergency department on January 24, 2014, having slipped and landed on his buttocks while walking on an icy pavement one week prior. She noted that appellant required approximately 15 surgeries in order to treat a large perirectal abscess with necrotic tissue, and that these surgeries were completed in late March 2014. After discharge, appellant underwent rehabilitation for some time.

On March 27, 2015 appellant, through counsel, requested reconsideration of OWCP's March 28, 2014 decision.

By decision dated June 11, 2015, OWCP reviewed the merits of appellant's claim and found that he had provided sufficient evidence to establish that the incident occurred as alleged and that he had been diagnosed with a medical condition. However, it found that he had not submitted sufficient medical evidence to establish a causal relationship between the diagnoses and the incident of January 18, 2014, because none of the medical evidence submitted to the record contained a physician's definitive opinion and well-rationalized explanation as to whether his claimed injury was related to that incident.

On May 31, 2016 appellant, through counsel, requested reconsideration of OWCP's June 11, 2015 decision. With his request, he submitted a narrative report from Dr. Bauza dated May 24, 2015. Dr. Bauza recalled his course of treatment and noted, that, upon initial evaluation, appellant reported a fall five days prior where he landed on his buttocks. She observed that physical examination demonstrated a large area of necrotic tissue in the perirectal region of his buttocks at the site of his fall with subsequent trauma to the buttock. Dr. Bauza stated that initial and subsequent operative exploration showed an extensive amount of necrotic tissue beyond that expected from a simple perirectal abscess even in the setting of diabetes. She explained, "It is my opinion that the fall that occurred prior to his presentation is the inciting event leading to his buttock becoming infected and developing into an abscess with a necrotizing soft tissue infection requiring the above-detailed medical and surgical care. The above opinion is rendered within a reasonable degree of medical certainty."

By decision dated June 29, 2016, OWCP reviewed the merits of appellant's claim and denied modification of its prior decision. It found that Dr. Bauza's statement was insufficient, because it was unclear how the fall caused necrotic tissue from an abscess and necessitated more than 15 surgeries and a fecal diversion with colostomy. OWCP further noted that Dr. Bauza failed to differentiate the effects of appellant's preexisting conditions of the same part of the body from the work-related injury.

LEGAL PRECEDENT

An employee seeking benefits under FECA³ 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

³ *Supra* note 2.

the United States” within the meaning of FECA, that the claim was timely filed within the applicable time limitation period of FECA, that an injury⁴ 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.⁵

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 sufficient evidence to establish that he 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 his or her condition relates to the employment incident.⁶

The claimant has the burden of establishing by the weight of reliable, probative, and substantial evidence that the condition for which compensation is sought is causally related to a specific employment incident or to specific conditions of employment.⁷ An award of compensation may not be based on appellant’s belief of causal relationship. 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 causal relationship.⁸

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence.⁹ Rationalized medical opinion evidence is medical evidence which includes a physician’s rationalized opinion on whether there is causal relationship between the employee’s diagnosed condition and compensable employment factors.¹⁰ 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,

⁴ OWCP’s 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).

⁵ *T.H.*, 59 ECAB 388, 393 (2008); see *Steven S. Saleh*, 55 ECAB 169, 171-72 (2003); *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

⁶ See *Shirley A. Temple*, 48 ECAB 404, 407 (1997); *John J. Carlone* 41 ECAB 354, 356-57 (1989).

⁷ *Roma A. Mortenson-Kindschi*, 57 ECAB 418, 428 n.37 (2006); *Katherine J. Friday*, 47 ECAB 591, 594 (1996).

⁸ *P.K.*, Docket No. 08-2551 (issued June 2, 2009); *Dennis M. Mascarenas*, 49 ECAB 215, 218 (1997).

⁹ *Y.J.*, Docket No. 08-1167 (issued October 7, 2008); *A.D.*, 58 ECAB 149, 155-56 (2006); *D’Wayne Avila*, 57 ECAB 642, 649 (2006).

¹⁰ *J.J.*, Docket No. 09-27 (issued February 10, 2009); *Michael S. Mina*, 57 ECAB 379, 384 (2006).

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.¹¹

ANALYSIS

Appellant alleged that on January 18, 2014 he sustained an injury to his buttocks as a result of a slip and fall on an icy sidewalk. OWCP accepted that the incident occurred as alleged, however, denied the claim as the evidence of record was insufficient to establish causal relationship. The Board finds that appellant has failed to submit sufficient evidence to establish a causal relationship between the incident of January 18, 2014 and his diagnosed conditions.

In a note dated January 24, 2014, Dr. Akhtar noted that appellant arrived at the emergency room following a fall and also noted that appellant was a diabetic. He diagnosed perigluteal infection with possible necrotizing fasciitis. Dr. Akhtar did not provide an opinion as to the cause of this diagnosis. As such, his report fails to sufficiently support the causal relationship between the condition and the accepted incident.¹²

On January 27, 2014 Dr. Coffin noted that appellant slipped on ice on Saturday, January 18, 2014, landing on his knees, and then falling on his buttocks. She noted that appellant's pain and stiffness worsened and on January 24, 2014 appellant was evaluated in a hospital emergency room and found to have severe sepsis. Dr. Coffin's report also did not address the cause of the diagnosed condition. As such, her report is of limited probative value regarding causal relationship of the diagnosis to the accepted employment incident.¹³

The first physician of record to actually address the issue of causal relationship was Dr. Bauza. In a progress note dated February 13, 2014, Dr. Bauzá diagnosed appellant with an ischlorectal abscess and fistula. She noted that appellant had undergone several surgical procedures to treat this condition between January 24 and February 12, 2014. In a narrative report dated May 24, 2015, Dr. Bauza recalled appellant's course of treatment and noted that, upon initial evaluation, he reported a fall five days prior where he landed on his buttocks. She observed that physical examination demonstrated a large area of necrotic tissue in the perirectal region of his buttocks at the site of his fall with subsequent trauma to the buttock. Dr. Bauza stated that initial and subsequent operative exploration showed an extensive amount of necrotic tissue beyond that expected from a simple perirectal abscess even in the setting of diabetes. She explained, "It is my opinion that the fall that occurred prior to his presentation is the inciting event leading to his buttock becoming infected and developing into an abscess with a necrotizing soft tissue infection requiring the above-detailed medical and surgical care. The above opinion is rendered within a reasonable degree of medical certainty."

Medical evidence submitted to support a claim for compensation should reflect a correct history, and the physician should offer a medically-sound explanation of how the claimed work

¹¹ *I.J.*, 59 ECAB 408, 415 (2008); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

¹² *C.B.*, Docket No. 09-2027 (issued May 12, 2010) (medical evidence which does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship).

¹³ *Id.*

event caused or aggravated the claimed condition.¹⁴ A mere conclusion without the necessary rationale explaining how and why the physician believes that the accepted incident resulted in a diagnosed condition is not sufficient to meet appellant's burden of proof.¹⁵ Neither the 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 an employment incident is sufficient to establish causal relationship.¹⁶ Dr. Bauza's statement fails to provide a sufficient explanation as to the mechanism of injury pertaining to this traumatic injury claim, namely, how a fall would cause or aggravate appellant's diagnosed conditions.¹⁷ Without explaining how the movements involved in the employment incident caused or contributed to the diagnosed conditions, his opinion is of limited probative value.¹⁸

As such, the Board finds that appellant failed to submit sufficient evidence to establish his claim for a work-related traumatic injury causally related to the accepted January 18, 2014 employment incident. Appellant did not submit a clear and rationalized opinion from a qualified physician relating his diagnosed perirectal abscess to the incident of January 18, 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 did not meet his burden of proof to establish a traumatic injury in the performance of duty on January 18, 2014.

¹⁴ *D.D.*, Docket No. 13-1517 (issued April 14, 2014).

¹⁵ *C.M.*, Docket No. 17-0596 (June 15, 2017).

¹⁶ *T.E.*, Docket No. 16-1090 (issued February 24, 2017).

¹⁷ *See T.G.*, Docket No. 14-0751 (issued October 20, 2014).

¹⁸ *Id.*

ORDER

IT IS HEREBY ORDERED THAT the June 29, 2016 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: August 21, 2017
Washington, DC

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

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

Alec J. Koromilas, Alternate Judge
Employees' Compensation Appeals Board