United States Department of Labor
Employees' Compensation Appeals Board

C.S., Appellant	)	
and	)	**Docket No. 17-1267**
	)	**Issued: December 18, 2017**
DEFENSE AGENCIES, DEFENSE HEALTH AGENCY, Bethesda, MD, Employer	)	

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

Case Submitted on the Record

DECISION AND ORDER

Before:
CHRISTOPHER J. GODFREY, Chief Judge
ALEC J. KOROMILAS, Alternate Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On May 22, 2017 appellant filed a timely appeal from a May 3, 2017 merit decision of the Office of Workers' Compensation Programs (OWCP).[1] Pursuant to the Federal Employees' Compensation Act[2] (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

ISSUE

The issue is whether appellant met her burden of proof to establish a left ankle injury causally related to the accepted June 17, 2017 employment incident.

[1] Appellant timely requested oral argument pursuant to section 501.5(b) of Board procedures. 20 C.F.R. § 501.5(b). By order dated November 3, 2017, the Board exercised its discretion and denied the request, finding that the arguments on appeal could adequately be addressed based on the case record. *Order Denying Request for Oral Argument*, Docket No. 17-1267 (issued November 3, 2017).

[2] 5 U.S.C. § 8101 *et seq.*

FACTUAL HISTORY

On June 24, 2016 appellant, then a 38-year-old orthopedic technician, filed a traumatic injury claim (Form CA-1) alleging that at 12:30 p.m. on June 17, 2016, she injured her left ankle on a slippery floor. A supervisor controverted the claim.

In a note dated June 21, 2016, Dr. Lynn Thomas, a Board-certified internist, noted that appellant had been seen on that date due to an injury to her left ankle. She recommended that appellant return to work on June 27, 2016.

On June 28, 2016 Dr. Jamie Chaffo, a podiatrist, diagnosed left ankle sprain of the deltoid and talofibular ligaments. She recommended that appellant use a boot with crutches.

By letter dated July 18, 2016, OWCP informed appellant of the evidence needed to establish her claim. It advised her that she had not submitted sufficient evidence to establish that the incident of June 17, 2016 occurred within the performance of duty. OWCP also noted that appellant had not submitted a physician's opinion on causal relationship. It requested that she respond to a claim development questionnaire and afforded her 30 days to submit additional evidence. In a letter of the same date, OWCP requested evidence from the employing establishment regarding whether appellant was within the performance of duty at the time of the claimed incident. No further evidence was submitted by appellant or the employing establishment.

By decision dated August 19, 2016, OWCP denied appellant's claim for compensation. It found that she had not submitted sufficient evidence to establish that the incident of June 17, 2016 occurred as alleged, because she had not responded to OWCP's development questionnaire contained in its July 18, 2016 letter. OWCP further noted that she had not submitted a medical diagnosis in connection with the claimed incident.

On August 22, 2016 appellant responded to OWCP's questionnaire. She stated that she was on the premises of the employing establishment and returning from her lunch break when she fell on wet stairs. Appellant noted that the incident occurred between noon and 1 p.m. on June 17, 2016, and that her tour of duty was from 7:30 a.m. to 4:30 p.m.

In a note dated August 22, 2016, Dr. Chaffo noted that appellant sustained a left ankle sprain/injury on June 17, 2016, with tears to the ankle ligaments confirmed by magnetic resonance imaging (MRI) scan. In an attached work status report dated August 15, 2016, Dr. Chaffo recommended that appellant could return to work at full capacity on September 20, 2016.

By form received on September 9, 2016, appellant requested an oral hearing before an OWCP hearing representative.

In a report dated June 28, 2016, Dr. Chaffo examined appellant and diagnosed left ankle pain/sprain.

The hearing was held on March 21, 2017. At the hearing, appellant explained that her injury occurred while she was returning from a lunch break on the premises of the employing

establishment when she slipped on wet stairs between the second and third floor. She noted that she was no longer under treatment for her left ankle. The hearing representative explained that appellant needed to submit a statement from a physician explaining how her left ankle condition was caused from slipping on water on the stairs, and held the record open for 30 days for the submission of such a statement.

In a note dated April 18, 2017, Dr. Chaffo indicated that appellant was seen on June 28 and July 28, 2016 for treatment of left ankle pain after a fall at work on June 17, 2016. She noted that appellant reported a twisting of the ankle during the fall and that the left ankle MRI scan confirmed bone edema to her talus bone. Dr. Chaffo opined, "This is a finding that can be seen with an ankle injury/twisting/fall."

By decision dated May 3, 2017, the hearing representative affirmed OWCP's August 19, 2016 decision as modified. She accepted that appellant had established the incident occurred as alleged, and that the claimed injury occurred in the performance of duty, but that she had not submitted sufficient evidence to establish that the incident of June 17, 2016 caused her diagnosed left ankle sprain.

LEGAL PRECEDENT

An employee seeking benefits under FECA[3] 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 injury[4] 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 fact of injury has been established. Fact of injury is based on two elements. First, the employee must submit 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 his or her condition relates to the employment incident.[6]

[3] *Supra* note 2.

[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 of 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).

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 the accepted employment incident.[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, 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 June 17, 2017, she sustained a left ankle injury as a result of slipping on wet stairs. OWCP accepted that the incident occurred in the performance of duty as alleged.

The Board finds that appellant has not submitted sufficient rationalized medical evidence to establish that the accepted employment incident caused or aggravated her diagnosed left ankle condition.

In a note dated April 18, 2017, Dr. Chaffo indicated that appellant was seen on June 28 and July 28, 2016 for treatment of left ankle pain after a fall at work on June 17, 2016. She noted that appellant reported a twisting of the ankle during the fall and that a left ankle MRI scan confirmed bone edema to her talus bone. Dr. Chaffo opined, "This is a finding that can be seen with an ankle injury/twisting/fall." Dr. Chaffo's April 18, 2017 opinion on causation is highly speculative, as she notes that the diagnosed ankle sprain "can be seen" with twisting an ankle on a fall.[12] While this report contains an accurate history of injury, it did not provide a medical explanation as to how, physiologically, slipping on stairs would have caused the diagnosed

[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).

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

[12] *See G.H.*, Docket No. 17-1387 (issued October 24, 2017).

condition.[13] As such, this report is of diminished probative value on the issue of causal relationship.

The remainder of the medical evidence does not contain a rationalized opinion from a physician as to the cause of appellant's claimed conditions. Appellant submitted several reports from Dr. Chaffo and a report from Dr. Thomas confirming a condition of her left ankle, but these reports did not contain an opinion on the cause of appellant's 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.[14] As such, these reports have limited probative value on the issue of causal relationship.

The Board therefore finds that appellant failed to submit sufficient evidence to establish her claim for a work-related left ankle injury causally related to the accepted June 17, 2016 employment incident. Appellant failed to submit a clear and rationalized opinion from a qualified physician relating her diagnosis to the accepted employment incident of June 17, 2016.[15]

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 a left ankle injury causally related to the accepted June 17, 2017 employment incident.

[13] *Id.*, *see also D.F.*, Docket No. 17-0135 (issued June 5, 2017).

[14] *Willie M. Miller*, 53 ECAB 697(2002).

[15] *Supra* note 12.

ORDER

IT IS HEREBY ORDERED THAT the May 3, 2017 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: December 18, 2017
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