United States Department of Labor
Employees' Compensation Appeals Board

S.T., Appellant	)	
and	)	**Docket No. 17-0913**
	)	**Issued: June 23, 2017**
U.S. POSTAL SERVICE, PROCESSING & DISTRIBUTION CENTER, Pittsburgh, PA, 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
PATRICIA H. FITZGERALD, Deputy Chief Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On March 20, 2017 appellant filed a timely appeal from a February 3, 2017 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.[2]

ISSUE

The issue is whether appellant has met his burden of proof to establish a traumatic injury causally related to his December 16, 2016 employment incident.

[1] 5 U.S.C. § 8101 *et seq.*

[2] The Board notes that appellant submitted additional evidence after OWCP rendered its February 3, 2017 decision. The Board's jurisdiction is limited to reviewing the evidence that was before OWCP at the time of its final decision. Therefore, the Board lacks jurisdiction to review this additional evidence on appeal. 20 C.F.R. § 501.2(c)(1).

FACTUAL HISTORY

On December 16, 2016 appellant, then a 54-year-old mail processing clerk, filed a traumatic injury claim (Form CA-1) alleging that he slipped while exiting his vehicle on that date injuring his right shoulder. He alleged a right shoulder strain. Appellant's supervisor indicated that appellant was injured in the performance of duty.

In a letter dated January 3, 2017, OWCP noted that appellant did not submit any supportive evidence with his traumatic injury claim (Form CA-1) and requested that he provide additional factual and medical evidence establishing that the alleged employment incident occurred, that he sustained a diagnosed medical condition, and that the diagnosed condition was causally related to the employment incident. It afforded him 30 days to reply.

In a January 31, 2017 response, appellant asserted that on December 16, 2016 at 9:55 a.m. he was exiting his work van when his left foot slid from under him. He reached and grabbed the seat arm rest, pulling his shoulder. Appellant felt his arm pop as well as pain in his left leg and back. He first sought medical treatment on December 20, 2016. Appellant submitted a magnetic resonance imaging (MRI) scan dated January 9, 2017, which demonstrated a full thickness rotator cuff tear involving the supraspinatus and infraspinatus tendons. This report indicated that he experienced persistent right shoulder pain after a fall in December 2016. Dr. John D. Lehman, a Board-certified orthopedic surgeon, examined appellant on January 23, 2017 and recommended surgery for the full thickness supraspinatus tear and ruptured biceps.

Appellant submitted a note from a physician assistant, whose signature is illegible, indicating that he was seen in the emergency department on December 20, 2016.

By decision dated February 3, 2017, OWCP found that appellant had established that he was a federal employee who had filed a timely claim, that the employment incident had occurred as alleged, that a medical condition had been diagnosed, and that he had been within the performance of duty. However, it denied his claim as the medical evidence of record was insufficient to establish causal relationship between his diagnosed shoulder conditions and his December 16, 2016 employment incident of slipping while exiting his work vehicle.

LEGAL PRECEDENT

An employee seeking benefits under FECA[3] has the burden of proof to establish the essential elements of his or her claim by the weight of the reliable, probative, and substantial evidence, including the fact that the individual is an "employee of the United States" within the meaning of FECA and that he or she filed the claim within the applicable time limitation.[4] The employee must also establish that he sustained an injury in the performance of duty as alleged, and that his disability from work, if any, was causally related to the employment injury.[5]

[3] *Supra* note 1.

[4] *R.C.*, 59 ECAB 427 (2008).

[5] *Id., Elaine Pendleton*, 40 ECAB 1142, 1145 (1989).

OWCP defines 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."[6] 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. 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.[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]

Causal relationship is a medical issue and the medical evidence required to establish causal relationship is rationalized medical evidence.[9] 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 employee.[10] 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.[11]

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish a traumatic injury causally related to his accepted December 16, 2016 employment incident.

Appellant alleged that he sprained his right shoulder on December 16, 2016 when he slipped as he exited his work vehicle and grabbed the arm rest on the seat pulling his shoulder. The medical evidence submitted in support of his claim consists of a right shoulder MRI scan report and a note from Dr. Lehman. The MRI scan report described appellant's history as falling in December 2016. This does not correspond to appellant's description of the employment incident, which was a slip from a vehicle and sliding his left foot to grab to the vehicle's arm rest. Furthermore, the MRI scan report did not provide any opinion on the causal relationship between his diagnosed rotator cuff tear and the accepted employment incident. Due to the lack of both a correct and detailed history of injury[12] and the lack of an opinion on the causal

[6] 20 C.F.R. § 10.5(ee).

[7] *John J. Carlone*, 41 ECAB 354 (1989).

[8] *J.Z.*, 58 ECAB 529 (2007).

[9] *Jacqueline M. Nixon-Steward*, 52 ECAB 140 (2000).

[10] *Leslie C. Moore*, 52 ECAB 132 (2000); *Gary L. Fowler*, 45 ECAB 365 (1994).

[11] *Dennis M. Mascarenas*, 49 ECAB 215 (1997).

[12] *D.E.*, Docket No. 16-1604 (issued February 1, 2017); *Daniel J. Overfield*, 42 ECAB 718 (1991) (medical opinions which are based on an incomplete or inaccurate factual background are entitled to little probative value in establishing a claim).

relationship between appellant's employment incident and diagnosed condition,[13] this report is insufficient to meet his burden of proof.

Appellant also submitted a note from a physician assistant. Certain healthcare providers such as physician assistants, nurse practitioners, physical therapists, and social workers are not considered physicians as defined under FECA.[14] Consequently, their medical findings and/or opinions will not suffice for purposes of establishing entitlement to FECA benefits.[15]

Appellant may submit new evidence[16] 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 a traumatic injury causally related to his December 16, 2016 employment incident.

[13] *D.R.*, Docket No. 16-0528 (issued August 24, 2016) (if medical reports do not provide an opinion on the cause of the claimant's condition, the opinions are insufficient to establish causal relationship).

[14] 5 U.S.C. § 8101(2); 20 C.F.R. § 10.5(t).

[15] *K.W.*, 59 ECAB 271, 279 (2007); *David P. Sawchuk*, 57 ECAB 316, 320 n.11 (2006).

[16] Appellant may submit this or any evidence to OWCP, together with a formal request for reconsideration, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. § 10.606(b)(2).

ORDER

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

Issued: June 23, 2017
Washington, DC

Christopher J. Godfrey, Chief Judge
Employees' Compensation Appeals Board

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

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