United States Department of Labor
Employees' Compensation Appeals Board

C.H., Appellant	)	
and	)	**Docket No. 17-1568**
	)	**Issued: October 26, 2017**
U.S. POSTAL SERVICE, POST OFFICE, Bronx, NY, Employer	)	

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

Case Submitted on the Record

DECISION AND ORDER

Before:
COLLEEN DUFFY KIKO, Judge
ALEC J. KOROMILAS, Alternate Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On July 11, 2017 appellant filed a timely appeal from a March 17, 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 over the merits of this case.[2]

ISSUE

The issue is whether appellant met her burden of proof to establish a right ankle injury due to a January 23, 2017 employment incident.

[1] 5 U.S.C. § 8101 *et seq.*

[2] The record provided the Board includes evidence received after OWCP issued its March 17, 2017 decision. However, the Board is precluded from reviewing evidence that was not part of the record at the time OWCP issued its final decision. 20 C.F.R. § 501.2(c)(1).

FACTUAL HISTORY

On January 31, 2017 appellant, then a 29-year-old city carrier assistant, filed a traumatic injury claim (Form CA-1) alleging that on January 23, 2017 she sustained a right ankle injury at work. She indicated that she was walking on a concrete sidewalk when she twisted her right ankle. Appellant stopped work on January 23, 2017.[3]

In a February 8, 2017 letter, OWCP requested that appellant submit additional evidence in support of her claim, including a physician's opinion supported by a medical explanation as to how the reported January 23, 2017 employment incident caused or aggravated a medical condition.

Appellant submitted an unsigned January 24, 2017 visit summary report regarding her January 24, 2017 visit with Dr. Betsy Koickel, a Board-certified family practitioner at the Northwell Health urgent care clinic. The report listed the reason for appellant's visit to Dr. Koickel as twisted ankle and the diagnosis as ankle arthralgia.

In a February 1, 2017 duty status report (Form CA-17), Dr. John Tsialas, an attending Board-certified family practitioner, listed the date of injury as January 23, 2017 and the history of injury as "twisted my ankle." He listed clinical findings of swelling and pain in the lateral aspect of her left ankle. Dr. Tsialas indicated that appellant was not able to perform her regular work as a city carrier assistant. In a February 1, 2017 post injury evaluation form, he diagnosed ankle sprain and checked a box marked "No work for (circle) 1/2/3 days," but he did not indicate the length of time appellant was unable to work. An unsigned February 1, 2017 visit summary report indicated that appellant was seen by Dr. Tsialas on that date and listed the diagnosis as ankle sprain, work-related injury.

In a February 6, 2017 postinjury evaluation form, Dr. Toral Parikh, an attending Board-certified family practitioner, diagnosed ankle sprain and checked a box marked "No work for (circle) 1/2/3 days," but he did not indicate the length of time appellant could not work. An unsigned February 6, 2017 visit summary report indicated that appellant was seen by Dr. Parikh on that date for a work-related ankle sprain. It was noted that appellant was referred for orthopedic evaluation.

In a February 27, 2017 attending physician's report (Form CA-20), Dr. Richard N. Weinstein, an attending Board-certified orthopedic surgeon, listed the date of injury as January 23, 2017 and the history of injury as "twisted right lateral ankle [at] work."[4] He diagnosed right lateral ankle sprain and checked a box marked "Yes" indicating that the condition found was caused or aggravated by an employment activity. Dr. Weinstein found that

[3] On the same form, appellant's immediate supervisor noted that the employing establishment was controverting her claim for a January 23, 2017 employment injury because she did not report the injury at the time of its alleged occurrence.

[4] In the findings portion of the report, Dr. Weinstein indicated that right ankle x-rays from an unspecified date showed no fracture.

appellant was totally disabled from January 23, 2017 to the present and recommended that she wear a controlled ankle motion walker boot and engage in physical therapy.[5]

In a March 17, 2017 decision, OWCP denied appellant's claim for a work-related ankle injury. Although appellant established that the January 23, 2017 employment incident -- "walking on concrete" -- occurred as alleged and that a medical condition had been diagnosed, she failed to establish that the diagnosed right ankle sprain was causally related to the accepted work event.

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 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.[6] These are the essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.[7]

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it first must be determined whether the fact of injury has been established. There are two components involved in establishing the fact of injury. 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.[8] Second, the employee must submit evidence, in the form of medical evidence, to establish that the employment incident caused a personal injury.[9]

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence. 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

[5] Appellant also submitted an administrative document indicating that Dr. Weinstein had referred her for physical therapy on February 27, 2017.

[6] *C.S.*, Docket No. 08-1585 (issued March 3, 2009); *Elaine Pendleton*, 40 ECAB 1143 (1989).

[7] *S.P.*, 59 ECAB 184 (2007); *Victor J. Woodhams*, 41 ECAB 345 (1989). A traumatic injury refers to injury caused by a specific event or incident or series of incidents occurring within a single workday or work shift whereas an occupational disease refers to an injury produced by employment factors which occur or are present over a period longer than a single workday or work shift. 20 C.F.R. § 10.5(q), (ee); *Brady L. Fowler*, 44 ECAB 343, 351 (1992).

[8] *Julie B. Hawkins*, 38 ECAB 393 (1987).

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

nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.[10]

ANALYSIS

Appellant filed a traumatic injury claim alleging that on January 23, 2017 she twisted her ankle while walking on a concrete sidewalk. In a March 17, 2017 decision, OWCP denied appellant's claim because the medical evidence failed to establish that her diagnosed right ankle sprain was causally related to the accepted January 23, 2017 employment incident. The Board finds that appellant did not meet her burden of proof to establish a right ankle injury due to the January 23, 2017 employment incident.

On January 24, 2017 appellant was seen on an urgent care basis by Dr. Koickel. An unsigned January 24, 2017 visit summary report listed the reason for the visit as twisted ankle and contained the diagnosis of ankle arthralgia (pain). However, this report is of no probative value regarding appellant's claim for a January 23, 2017 work injury because it was not signed by a physician as defined by FECA. The Board has held that a document not signed by a physician as defined by FECA does not constitute medical evidence and has no probative value regarding a given medical matter.[11]

In a February 1, 2017 duty status report, Dr. Tsialas, an attending physician, listed the date of injury as January 23, 2017 and the history of injury as "twisted my ankle." He listed clinical findings and indicated that appellant was disabled from her regular job. This report is of limited probative value with respect to establishing causal relationship between appellant's medical condition and the January 23, 2017 employment incident because Dr. Tsialas did not provide a diagnosis or discuss the cause of her medical condition. The Board has held that medical evidence which does not offer a clear opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship.[12]

In a February 1, 2017 postinjury evaluation form, Dr. Tsialas diagnosed ankle sprain and checked a box marked "No work for (circle) 1/2/3 days" but did not indicate the length of time appellant could not work. This report is of limited probative value on the main issue of the present case because Dr. Tsialas did not identify a work-related cause for any period of disability.[13]

[10] *See I.J.*, 59 ECAB 408 (2008); *Donna Faye Cardwell*, 41 ECAB 730 (1990).

[11] *R.R.*, Docket No. 17-0176 (issued July 21, 2017); *Merton J. Sills*, 39 ECAB 572, 575 (1988). Section 8101(2) of FECA provides that the term physician includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, and osteopathic practitioners within the scope of their practice under State law. 5 U.S.C. § 8101(2).

[12] *See Charles H. Tomaszewski*, 39 ECAB 461 (1988).

[13] *See id.* An unsigned February 1, 2017 visit summary report indicated that appellant was seen by Dr. Tsialas on that date and listed the diagnoses of ankle sprain and work-related injury. However, this document is of no probative value regarding appellant's claim for a January 23, 2017 work injury because it also was not signed by a physician as defined by FECA and does not constitute probative medical evidence. *See supra* note 11.

In a February 6, 2017 postinjury evaluation form, Dr. Parikh, an attending Board-certified family practitioner, diagnosed ankle sprain and checked a box marked "No work for (circle) 1/2/3 days" but did not indicate the length of time appellant could not work. This report is of limited probative value with respect to establishing a causal relationship between appellant's condition and the January 23, 2017 employment incident because Dr. Parikh provided no opinion indicating a work-related cause for appellant's disability.[14]

In a February 27, 2017 attending physician's report, Dr. Weinstein listed the date of injury as January 23, 2017 and the history of injury as "twisted right lateral ankle [at] work." Dr. Weinstein diagnosed right lateral ankle sprain and checked a box marked "Yes" indicating the condition found was caused or aggravated by an employment activity. He found that appellant was totally disabled from January 23, 2017 to the present.

The Board has held that when a physician's opinion on causal relationship consists only of checking "Yes" to a form question, without more by the way of medical rationale, that opinion has little probative value and is insufficient to establish causal relationship.[15] Appellant's burden includes the necessity of furnishing an affirmative opinion from a physician who supports his or her conclusion with sound medical reasoning.[16] As Dr. Weinstein did no more than check "Yes" to a form question, his opinion on causal relationship is of little probative value and is insufficient to discharge appellant's burden of proof.[17] He did not describe the January 23, 2017 employment incident in any detail or explain in medical terms how it could have caused the diagnosed condition. Dr. Weinstein's report is of limited probative value in establishing a January 23, 2017 employment injury because he did not provide a rationalized medical opinion on causal relationship.[18]

On appeal appellant argues that the medical evidence of record establishes her claim for a January 23, 2017 employment injury, but the Board has explained why this evidence is insufficient to establish her claim.

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.

[14] *See supra* note 12. An unsigned February 6, 2017 visit summary report indicated that appellant was seen by Dr. Parikh on that date and listed the diagnoses of work-related injury and ankle sprain. This document is of no probative value on the relevant issue of this case because it was not signed by a physician as defined by FECA and does not constitute probative medical evidence. *See supra* note 11.

[15] *See D.D.*, 57 ECAB 734, 739 (2006); *Deborah L. Beatty*, 54 ECAB 340, 341 (2003).

[16] *Lillian M. Jones*, 34 ECAB 379, 381 (1982).

[17] *See supra* note 15.

[18] *C.M.*, Docket No. 14-88 (issued April 18, 2014) (finding that a medical report is of limited probative value on the issue of causal relationship if it contains a conclusion regarding causal relationship which is unsupported by medical rationale).

CONCLUSION

The Board finds that appellant did not meet her burden of proof to establish that she sustained a right ankle injury due to a January 23, 2017 employment incident.

ORDER

IT IS HEREBY ORDERED THAT the March 17, 2017 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: October 26, 2017
Washington, DC

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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

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