

FACTUAL HISTORY

On June 3, 2015 appellant, then a 38-year-old procurement analyst, filed a traumatic injury claim (Form CA-1) alleging that on June 2, 2015 he sustained injury to his wrist, ankles, right hand, and left shin.³

The findings of a March 26, 2015 magnetic resonance imaging (MRI) scan of appellant's right wrist contained an impression of a tear of the right triangular fibrocartilage complex (TFCC). A report of June 3, 2015 bilateral wrist x-rays indicated an impression of no fracture, dislocation, or osteopenia, and a June 30, 2015 MRI scan of the left wrist included an impression of left TFCC tear.

In a report dated July 22, 2015, Dr. Debra Parisi, an attending Board-certified orthopedic surgeon, noted that appellant reported that, when he fell on June 2, 2015, he tried to catch himself with his hands. Dr. Parisi diagnosed left wrist osteoarthritis as shown by MRI scan as well as left TFCC tear and left ulnar syndrome.

In a statement dated July 28, 2015, appellant indicated that when he fell on June 2, 2015 his hands struck the concrete sidewalk at the base of the stairs.

In an August 6, 2015 decision, OWCP accepted appellant's claim for bilateral wrist and ankle sprains. It also determined that the reports of appellant's attending physicians were insufficient to accept either a TFCC tear or left ulnar nerve syndrome as being causally related to the March 4 or June 2, 2015 work incident.

In a report dated September 2, 2015, Dr. Parisi referenced the June 30, 2015 MRI scan results and diagnosed left TFCC tear as well as preexisting left ulnar syndrome. She attributed the TFCC tear to the June 2, 2015 work incident and recommended an electromyogram (EMG) test to rule out cubital tunnel syndrome.

In a September 9, 2015 letter, OWCP advised appellant that the medical evidence of record needed to establish causal relationship between the March 4 or June 2, 2015 work injury and the alleged additional conditions of his left upper extremity.

In a report dated September 16, 2015, Dr. Parisi diagnosed left TFCC tear and wrist osteoarthritis. She advised that appellant developed cubital tunnel symptoms and that he had been asymptomatic prior to his June 2, 2015 fall. Dr. Parisi opined that the left TFCC tear was related to appellant's fall on June 2, 2015. She indicated that appellant might also have hit his left elbow when he fell and noted that the swelling due to such a fall could have caused left ulnar nerve syndrome/cubital tunnel syndrome.

In a decision dated October 14, 2015, OWCP advised appellant that his claim had been accepted for the additional condition of "other specified sprain of left wrist, initial encounter."

³ Under a separate case file (OWCP File No. xxxxxx065), OWCP had previously accepted that on March 4, 2015 appellant sustained a right wrist sprain due to a fall at work. The case file for the March 4, 2015 injury has been merged with the file for the present claim as a subsidiary file.

In a separate October 14, 2015 decision, OWCP determined that appellant's claim was denied for the conditions of left wrist osteoarthritis, left ulnar nerve syndrome, and left cubital syndrome. It found that Dr. Parisi did not provide sufficient medical rationale in her reports to establish that these conditions were related to the March 4 or June 2, 2015 work injury. Appellant requested an oral hearing before an OWCP hearing representative.

Prior to the hearing, appellant submitted additional medical reports to OWCP. In a report dated September 30, 2015, Dr. Barry S. Hyman, an attending Board-certified orthopedic surgeon, detailed his treatment of appellant's ankle conditions and diagnosed bilateral ankle strains/sprains.

December 18, 2015 EMG/nerve conduction velocity (NCV) studies of appellant's upper extremities contained an impression of bilateral cubital tunnel syndrome.

In a report dated February 3, 2016, Dr. Parisi discussed the December 18, 2015 EMG/NCV results and diagnosed cubital tunnel syndrome referable to the June 2, 2015 work injury.

In April 2016, OWCP referred appellant to Dr. Louis D. Nunez, a Board-certified orthopedic surgeon, for a second opinion medical examination and evaluation of his work-related medical conditions. In an April 22, 2016 report, Dr. Nunez provided a history of the March 4 and June 2, 2015 work incidents and discussed the March 26, 2015 and June 30, 2015 MRI scan reports as well as the December 18, 2015 EMG/NCV report. He posited that appellant's bilateral TFCC tears were directly related to the June 2, 2015 work injury.⁴

In a report dated May 20, 2016, Dr. Parisi indicated that appellant had symptoms causally related to work injuries and that he was totally disabled on account of such injuries. She repeated her diagnosis of left TFCC tear and left ulnar syndrome.

At the hearing held on May 25, 2016, appellant testified that he had no injuries to his hands or elbows prior to March 4, 2015. He indicated that his left elbow hit the ground when he fell on June 2, 2015 and that he later developed swelling and tingling in his left elbow. Counsel argued that the reports of Dr. Parisi showed that appellant's left ulnar syndrome and cubital tunnel syndrome were causally related to the June 2, 2015 work injury.

In a July 1, 2016 decision, OWCP's hearing representative affirmed OWCP's October 14, 2015 decision, finding that appellant's claim was denied for the conditions of left wrist osteoarthritis, left ulnar nerve syndrome, and left cubital syndrome. He found that the reports of Dr. Parisi finding a work-related cause for these conditions lacked adequate medical rationale. The hearing representative noted, "It is recommended that [OWCP] expand the merged claims to include bilateral TFCC tear as diagnosed by Dr. Nunez, the second opinion medical examiner."

⁴ Dr. Nunez noted, "The claimant had reduced ranges of motion and positive ulnar grind test. This, combined with the MRI scan evidence of a torn [TFCC], is indicative of the fact that the conditions are causally related to the employment injury of June 2, 2015."

LEGAL PRECEDENT

An employee seeking benefits under FECA⁵ 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

The medical evidence required to establish causal relationship between a claimed period of disability and an employment injury 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 nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.⁷

ANALYSIS

OWCP accepted that on June 2, 2015 appellant sustained bilateral wrist sprains, bilateral ankle sprains, and “other specified sprain of left wrist, initial encounter.”⁸ It denied that the following conditions were related his March 4 or June 2, 2015 work injuries: left wrist osteoarthritis, left ulnar nerve syndrome, and left cubital syndrome.

In his July 1, 2016 decision, OWCP’s hearing representative is noted to have effectively accepted appellant’s claim for another condition related to the accepted work injuries, *i.e.*, bilateral TFCC tears. OWCP’s hearing representative properly noted that the work-related nature of these conditions was established by the April 22, 2016 report of Dr. Nunez, OWCP’s referral physician.

The Board finds, however, that appellant has not met his burden of proof to establish additional conditions related to his March 4 or June 2, 2015 work injury.

In a report dated September 16, 2015, Dr. Parisi diagnosed left TFCC tear and wrist osteoarthritis. She indicated that appellant might also have hit his left elbow when he fell on June 2, 2015 and noted that the swelling due to such a fall could have caused left ulnar nerve syndrome/cubital tunnel syndrome. Dr. Parisi’s opinion in this regard is speculative in nature and therefore is of limited probative value to show causal relationship to the June 2, 2015 work injury. The Board has held that an opinion which is speculative in nature is of limited probative value regarding the issue of causal relationship.⁹ In addition, in his July 28, 2015 statement and

⁵ *Supra* note 2.

⁶ *J.F.*, Docket No. 09-1061 (issued November 17, 2009).

⁷ *See E.J.*, Docket No. 09-1481 (issued February 19, 2010).

⁸ OWCP previously accepted that on March 4, 2015 appellant sustained a right wrist sprain.

⁹ *See Leonard J. O’Keefe*, 14 ECAB 42, 48 (1962); *James P. Reed*, 9 ECAB 193, 195 (1956).

initial statements to attending physicians, appellant indicated that only his hands and wrists struck the concrete base of the stairway when he fell. It was not until the May 25, 2016 hearing that he asserted that his left elbow struck anything.¹⁰

In her September 16, 2015 report, Dr. Parisi advised that appellant developed cubital tunnel symptoms and that he had been asymptomatic prior to his June 2, 2015 fall. However, the Board has held that the fact that a condition manifests itself or worsens during a period of employment¹¹ or that work activities produce symptoms revelatory of an underlying condition¹² does not raise an inference of causal relationship between a claimed condition and employment factors. Dr. Parisi noted that left ulnar syndrome preexisted the June 2, 2015 work incident, but she did not differentiate between this preexisting condition and any effects of the March 4 or June 2, 2015 work incident on this preexisting condition.

In a report dated February 3, 2016, Dr. Parisi discussed the December 18, 2015 EMG/NCV results and diagnosed cubital tunnel syndrome referable to the June 2, 2015 injury. In a report dated May 20, 2016, she indicated that appellant had symptoms causally related to work injuries, and was totally disabled on account of such injuries. Dr. Parisi repeated her diagnosis of left TFCC tear and left ulnar syndrome. However, these reports are of limited probative in showing additional work-related injuries because Dr. Parisi did not provide medical rationale in support of her opinion on causal relationship. The Board has held 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.¹³

For these reasons, the Board finds that appellant has not submitted sufficient medical evidence to show that he sustained medical conditions due to the March 4 or June 2, 2015 work injury in addition to the bilateral TFCC tears and the other previously accepted conditions.¹⁴

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.

¹⁰ Moreover, there is no indication that appellant fell on his elbows during the fall that caused his March 4, 2015 employment injury.

¹¹ *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

¹² *Richard B. Cissel*, 32 ECAB 1910, 1917 (1981).

¹³ *C.M.*, Docket No. 14-0088 (issued April 18, 2014).

¹⁴ The record contains a form for authorization for examination and/or treatment (Form CA-16) executed by the employing establishment on June 4, 2015. The Board notes that where an employing establishment properly executes a Form CA-16 which authorizes medical treatment as a result of an employee's claim for an employment-related injury, the Form CA-16 creates a contractual obligation, which does not involve the employee directly, to pay for the cost of the examination or treatment regardless of the action taken on the claim. *See Tracy P. Spillane*, 54 ECAB 608 (2003). The period for which treatment is authorized by a Form CA-16 is limited to 60 days from the date of issuance, unless terminated earlier by OWCP. *See* 20 C.F.R. § 10.300(c). The record is silent as to whether OWCP paid for the cost of appellant's examination or treatment for the period noted on the form.

CONCLUSION

The Board finds that appellant did not meet his burden of proof to establish additional conditions related to his March 4 or June 2, 2015 work injuries.

ORDER

IT IS HEREBY ORDERED THAT the July 1, 2016 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: September 26, 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