

FACTUAL HISTORY

On June 16, 2017 appellant, then a 56-year-old rural carrier associate, filed a traumatic injury claim (Form CA-1) alleging that, on June 15, 2017, she sustained a middle back sprain as a result of a vehicle collision. She noted that the claimed injury occurred at “20822 Meceola Road, Paris, Michigan 49338, 826 Division Street, Big Rapids, Michigan 49307.” Appellant stopped work on the date of injury and returned to work two days later on June 18, 2017.

In support of her claim, appellant submitted discharge instructions dated June 15, 2017 from Big Rapids Hospital’s Emergency Department.

A June 15, 2017 work release form from a physician with an illegible signature indicated that appellant could return to work with restrictions on June 16, 2017.

By development letter dated June 23, 2017, OWCP notified appellant of the deficiencies of her claim and afforded her 30 days to submit additional medical and factual evidence.³ Appellant was also provided a questionnaire for her completion regarding the factual circumstances of her injury. She did not respond.

In an August 3, 2017 decision, OWCP denied appellant’s traumatic injury claim. It found that she had failed to respond to its June 23, 2017 development questionnaire and failed to describe the June 15, 2017 incident in sufficient detail to establish that the employment incident occurred as alleged. OWCP further found that appellant failed to submit medical evidence containing a medical diagnosis in connection with the claimed injury or event(s).

On August 18, 2017 appellant requested reconsideration by placing an “x” on the applicable line of an appeal request form. She did not submit additional evidence.

By decision dated August 28, 2017, OWCP denied further merit review of appellant’s claim. It found that her request for reconsideration neither raised substantive legal questions, nor included new and relevant evidence.

LEGAL PRECEDENT -- ISSUE 1

An employee seeking benefits under FECA⁴ has the burden of proof to establish the essential elements of his or her claim by the weight of the reliable, probative, and substantial evidence⁵ including that he or she sustained an injury in the performance of duty and that any specific condition or disability from work for which he or she claims compensation is causally related to that employment injury.⁶

³ OWCP stated that the date of injury was June 16, 2017.

⁴ *Supra* note 1.

⁵ *J.P.*, 59 ECAB 178 (2007); *Joseph M. Whelan*, 20 ECAB 55, 58 (1968).

⁶ *G.T.*, 59 ECAB 447 (2008); *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it first must be determined whether fact of injury has been established.⁷ There are two components involved in establishing fact of injury. 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.⁸

The second component is whether the employment incident caused a personal injury and generally can be established only by medical evidence.⁹ The evidence required to establish causal relationship is rationalized medical opinion evidence, based upon complete factual and medical background, showing causal relationship between the claimed condition and the identified factors.¹⁰ The belief of the claimant that a condition was caused or aggravated by the employment is insufficient to establish a causal relationship.¹¹

ANALYSIS -- ISSUE 1

The Board finds that appellant has failed to establish an injury in the performance of duty on June 15, 2017, as alleged.

Appellant has not provided sufficient detail to establish that a traumatic incident occurred as alleged in the performance of duty.¹² On her Form CA-1, she alleged that she sustained a back injury on June 15, 2017 due to a vehicle collision. However, the Board notes that appellant indicated that the alleged injury occurred on two street locations in different cities in Michigan. Moreover, appellant's description of the traumatic incident is vague and fails to provide any specific detail to determine the manner in which she sustained her alleged injury. Her description did not relate with specificity the circumstances of the injury.¹³ Appellant did not explain how the vehicle collision caused her claimed injury. While the evidence from Big Rapids Hospital's Emergency Department and a physician with an illegible signature establishes that she was treated on June 15, 2017, this evidence is insufficient to establish that the injury occurred while in the performance of duty on June 15, 2017.

Appellant was provided an opportunity to submit evidence to establish how her alleged injury occurred on June 15, 2017. By letter dated June 23, 2017, OWCP requested that she describe the factual circumstances of her injury and provided her with a factual development questionnaire for completion. Appellant did not respond to the questionnaire and failed to provide

⁷ *S.P.*, 59 ECAB 184 (2007); *Alvin V. Gadd*, 57 ECAB 172 (2005).

⁸ *Bonnie A. Contreras*, 57 ECAB 364 (2006); *Edward C. Lawrence*, 19 ECAB 442 (1968).

⁹ *John J. Carlone*, 41 ECAB 354 (1989); see 5 U.S.C. § 8101(5) (injury defined); 20 C.F.R. §§ 10.5(ee), 10.5(q) (traumatic injury and occupational disease defined, respectively).

¹⁰ *Lourdes Harris*, 45 ECAB 545 (1994); see *Walter D. Morehead*, 31 ECAB 188 (1979).

¹¹ *Kathryn Haggerty*, 45 ECAB 383, 389 (1994).

¹² *Dennis M. Mascarenas*, 49 ECAB 215, 218 (1997).

¹³ See *T.N.*, Docket No. 16-1099 (issued December 16, 2016).

a narrative statement detailing the traumatic incident prior to the issuance of OWCP's denial of her claim on August 3, 2017. The only explanation she provided pertaining to the alleged June 15, 2017 traumatic incident was the generalized and vague statement noted on her Form CA-1. By failing to describe the employment incident and circumstances surrounding her alleged injury, appellant has not established that the traumatic injury occurred at work in the performance of duty, as alleged.¹⁴ Thus, the Board finds that she has not met her burden of proof.¹⁵ As such, it is unnecessary to address the medical evidence regarding causal relationship.¹⁶

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.

LEGAL PRECEDENT -- ISSUE 2

Section 8128 of FECA vests OWCP with a discretionary authority to determine whether it will review an award for or against compensation, either under its own authority or on application by a claimant.¹⁷ Section 10.608(b) of OWCP's regulations provide that a timely request for reconsideration may be granted if OWCP determines that the claimant has presented evidence and/or argument that meet at least one of the standards described in section 10.606(b)(3).¹⁸ This section provides that the application for reconsideration must be submitted in writing and set forth arguments and contain evidence that either: (1) shows that OWCP erroneously applied or interpreted a specific point of law; (2) advances a relevant legal argument not previously considered by OWCP; or (3) constitutes relevant and pertinent new evidence not previously considered by OWCP.¹⁹ Section 10.608(b) provides that, when a request for reconsideration is timely, but fails to meet at least one of these three requirements, OWCP will deny the application for reconsideration without reopening the case for a review on the merits.²⁰

ANALYSIS -- ISSUE 2

The Board finds that OWCP properly denied appellant's request for reconsideration of the merits of her claim.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *See Bonnie A. Contreras*, 57 ECAB 364 (2006); *Alvin V. Gadd*, 57 ECAB 172 (2005).

¹⁷ 5 U.S.C. § 8128(a).

¹⁸ 20 C.F.R. § 10.608(a).

¹⁹ *Id.* at § 10.606(b)(3).

²⁰ *Id.* at § 10.608(b).

Appellant disagreed with OWCP's denial of her traumatic injury claim for a back injury causally related to the alleged June 15, 2017 incident. On August 18, 2017 she requested reconsideration.

The Board finds that appellant did not show that OWCP erroneously applied or interpreted a specific point of law, advance a relevant legal argument not previously considered by OWCP, or provide relevant and pertinent new evidence not previously considered by OWCP.

Appellant's August 18, 2017 reconsideration request consisted only of an "x" on an appeal request form indicating that she wanted reconsideration. She did not offer any argument or submit any evidence in support of her request. Appellant suggested no reason for OWCP to reconsider the denial of her traumatic injury claim. Such a bare request is insufficient to warrant a reopening of her case.²¹

CONCLUSION

The Board finds that appellant has not met her burden of proof to establish a back injury in the performance of duty on June 15, 2017, as alleged. The Board further finds that OWCP properly denied her request for reconsideration of the merits of her claim under 5 U.S.C. § 8128(a).

²¹ See *I.J.*, Docket No. 16-1380 (issued November 22, 2016); *L.B.*, Docket No. 14-2064 (issued February 3, 2015); *J.A.*, Docket No. 14-1447 (issued October 21, 2014).

ORDER

IT IS HEREBY ORDERED THAT the August 28 and 3, 2017 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: April 13, 2018
Washington, DC

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

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

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