United States Department of Labor
Employees' Compensation Appeals Board

M.C., Appellant	)	
and	)	**Docket No. 17-1615**
	)	**Issued: August 23, 2018**
DEPARTMENT OF VETERANS AFFAIRS, VETERANS HEALTH ADMINISTRATION, Augusta, GA, 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 July 20, 2017 appellant filed a timely appeal from a July 10, 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.

ISSUE

Whether appellant has met her burden of proof to expand the acceptance of her claim to include dental conditions thereby warranting authorization for orthodontic treatment.

FACTUAL HISTORY

On July 21, 2016 appellant, a 62-year-old social worker, filed a traumatic injury claim (Form CA-1) alleging that she sustained injuries to her face, shoulder, knees, hands, and head on

[1] 5 U.S.C. § 8101 *et seq.*

July 18, 2016 due to falling face-forward onto asphalt. She stopped work on the date of injury and returned on July 20, 2016.

In support of her claim, appellant submitted emergency room discharge instructions dated July 18, 2016 and a July 21, 2016 report from Dr. Joseph J. Korwin, a Board-certified internist, who diagnosed traumatic facial abrasions, contusions, frontal headache, mild neck strain, and right temporomandibular joint strain superimposed on chronic arthrosis.

In an August 26, 2016 development letter, OWCP indicated that when appellant's claim was received it appeared to be a minor injury that resulted in minimal or no lost time from work and, based on these criteria and because the employing establishment did not controvert continuation of pay or challenge the case, payment of a limited amount of medical expenses was administratively approved. It stated that it had reopened the claim for consideration because she called to report that she needed continual medical care. OWCP requested additional evidence and afforded appellant 30 days to respond to its inquiries.

In response appellant submitted hospital records dated July 18, 2016 from Dr. Przemyslaw Iwanowski, an emergency medicine physician, who noted that she was walking on an uneven sidewalk when she tripped and fell onto her face. Dr. Iwanowski diagnosed bleeding nose, facial abrasion, fall, and loose teeth.

Appellant further submitted dental bills and reports dated October 8, 2014 and May 19, June 10, July 26, and August 12, 2016 from her dentists, Drs. Muis F. Miranda and Harini S. Jindal. On October 8, 2014 Dr. Miranda reported that appellant had not had a cleaning in one year and found "slight bone loss [four millimeter] pocket."

On May 19, 2016 Dr. Jindal noted that appellant presented with some numbness on the upper right side of the mouth.

In a June 10, 2016 report, Dr. Jindal indicated that she referred appellant to her physician regarding her numbness and discussed an Arkiclosure in the front teeth because appellant was very concerned about the way the front teeth were functioning with the lower teeth. She found that teeth numbers eight and nine had severe stress fractures.

On July 26, 2016 Dr. Jindal noted that appellant presented with trauma to her face, specifically the right side had been impacted by a fall. She advised that appellant wait to see if the swelling and soreness would go down before deciding on a proper treatment plan. Dr. Jindal also discussed that appellant's bite would need to be corrected in the future with orthodontics.

In an August 12, 2016 report, Dr. Jindal found that appellant was only occluding on her anterior teeth, was unable to bite or chew food on her posterior teeth, and was developing soreness and fracturing on her anterior teeth due to this malocclusion.

By decision dated September 15, 2016, OWCP accepted appellant's claim for abrasion of facial front.

In letters received by OWCP on October 11, November 14, and December 20, 2016, appellant requested authorization for orthodontic treatment in the form of Invisalign to correct her bite.

By decision dated December 20, 2016, OWCP denied authorization for expanding the acceptance of her claim to include shifted teeth out of alignment because the evidence of record was insufficient to establish that appellant's teeth shifted out of alignment causally related to the July 18, 2016 work injury. It noted that additional evidence was requested in order to establish that authorization to address the effects of her work-related injury or conditions, but that she had not responded with a medical report with a firm diagnosis and a medical opinion explaining the cause and effect between the July 18, 2016 work injury and the medical condition claimed.

On January 4, 2017 appellant requested an oral hearing by a representative of OWCP's Branch of Hearings and Review.

Appellant submitted narrative statements reiterating her contentions, a photograph of her face, and a July 26, 2016 report from Dr. Jindal who noted that appellant fell face-forward onto an asphalt sidewalk while walking to work on July 18, 2016. She was treated immediately in an emergency department and they recommended that she follow-up with a dentist. Appellant was seen by her dentist on July 26, 2016 and at that time the injuries were too recent and routine dental work had to be delayed due to facial injuries and bruising to the gums. Dr. Jindal opined that, as a result of her fall, appellant's teeth were pushed out of place resulting in misalignment, her bottom and top teeth were no longer correctly aligned to allow a proper bite. Top teeth 5 through 12, 14, and 15 remained painful to touch and pressure, which further impacted appellant's bite. Dr. Jindal further opined that appellant's chronic headaches were "most likely" related to misalignment of her teeth. She concluded that orthodontics was the only solution to correct appellant's injury and allow her to return to her normal bite and to realign her teeth into proper alignment. Dr. Jindal advised that Invisalign was recommended due to appellant's age because it would reduce further trauma and dental decay underneath brackets. She noted that appellant previously had orthodontics in her early 30s.

A telephonic hearing was held before an OWCP hearing representative on June 7, 2017. Appellant provided testimony and the hearing representative held the case record open for 30 days for the submission of additional evidence.

By decision dated July 10, 2017, OWCP's hearing representative affirmed the prior decision. She explained that Dr. Jindal's reports did not contain a full factual background, including discussion of any preinjury bite problems and appellant's prior orthodontia. The hearing representative found, therefore, that the medical evidence of record was insufficient to establish causal relationship between the accepted work injury and the recommended treatment.

LEGAL PRECEDENT

In order to be entitled to reimbursement of medical expenses, it must be shown that the expenditures were incurred for treatment of the effects of an employment-related injury or

condition.[2] Proof of causal relationship in a case such as this must include supporting rationalized medical evidence.

Section 8103 of FECA provides that the United States shall furnish to an employee who is injured while in the performance of duty, the services, appliances, and supplies prescribed or recommended by a qualified physician, which OWCP considers likely to cure, give relief, reduce the degree, or the period of disability, or aid in lessening the amount of the monthly compensation.[3] In interpreting this section of FECA, the Board has recognized that OWCP has broad discretion in approving services provided under FECA.[4] OWCP has the general objective of ensuring that an employee recovers from his or her injury to the fullest extent possible in the shortest amount of time. It therefore has broad administrative discretion in choosing means to achieve this goal. The only limitation on OWCP's authority is that of reasonableness.[5] Abuse of discretion is generally shown through proof of manifest error, clearly unreasonable exercise of judgment, or actions taken which are contrary to both logic and probable deductions from established facts.[6] It is not enough to merely show that the evidence could be construed so as to produce a contrary factual conclusion.[7]

Where an employee claims that a condition not accepted or approved by OWCP was due to an employment injury, he or she bears the burden of proof to establish that the condition is causally related to the employment injury.[8] To establish causal relationship between the condition, as well as any attendant disability claimed and the employment event or incident, the employee must submit rationalized medical opinion 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 claimant.[10] The weight of medical evidence is determined by its reliability, its probative value, its convincing quality, the care of analysis manifested and the medical rationale expressed in support of the physician's opinion.[11]

[2] *S.W.*, Docket No. 17-1319 (issued December 7, 2017); *Zane H. Cassell*, 32 ECAB 1537 (1981)

[3] 5 U.S.C. § 8103.

[4] *See J.B.*, Docket No. 11-1301 (issued March 22, 2012).

[5] *Id.*

[6] *Id.*

[7] *See Dale E. Jones*, 48 ECAB 648 (1997); *Daniel J. Perea*, 42 ECAB 214 (1990).

[8] *See V.B.*, Docket No. 12-0599 (issued October 2, 2012); *Jaja K. Asaramo*, 55 ECAB 200 (2004).

[9] *See M.W.*, 57 ECAB 710 (2006); *John D. Jackson*, 55 ECAB 465 (2004).

[10] *See John W. Montoya*, 54 ECAB 306 (2003).

[11] *See H.H.*, Docket No. 16-0897 (issued September 21, 2016); *James Mack*, 43 ECAB 321 (1991).

ANALYSIS

OWCP accepted that appellant sustained an abrasion of facial front due to falling face-forward onto asphalt on July 18, 2016. Appellant subsequently requested authorization for orthodontic treatment based on reports from her dentist, Dr. Jindal.

Dr. Jindal opined that, as a result of appellant's fall on July 18, 2016, her teeth were pushed out of place resulting in misalignment; her bottom and top teeth were no longer correctly aligned to allow a proper bite. Top teeth 5 through 12, 14, and 15 remained painful to touch and pressure, which further impacted appellant's bite. Dr. Jindal further opined that appellant's chronic headaches were "most likely" related to misalignment of her teeth. She concluded that orthodontics was the only solution to correct appellant's injury and allow her to return to her normal bite and to realign her teeth into proper alignment. Dr. Jindal advised that Invisalign was recommended due to appellant's age because it would reduce further trauma and dental decay underneath brackets. She noted that appellant previously had orthodontics in her early 30s.

Dr. Jindal noted that appellant's conditions occurred while she was at work, but such generalized statements do not establish causal relationship because they merely repeat appellant's allegations and are unsupported by adequate medical rationale explaining how her physical activity at work actually caused or aggravated the diagnosed conditions.[12] Her opinion was based, in part, on temporal correlation. However, the Board has held that 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 a causal relationship.[13] The need for rationale is particularly important as the evidence of record indicates that appellant had a preexisting dental condition and prior orthodontic treatment. Dr. Jindal did not otherwise sufficiently explain the reasons why diagnostic testing and examination findings led her to conclude that the July 18, 2016 incident at work caused or contributed to the diagnosed conditions and/or need for Invisalign. Thus, the Board finds that the reports from Dr. Jindal are insufficient to establish that appellant sustained an employment-related dental injury and, thus, OWCP did not abuse its discretion by denying appellant authorization for orthodontic treatment.

CONCLUSION

The Board finds that as appellant did not meet her burden of proof to establish expansion of the acceptance of her claim to include dental conditions, authorization for orthodontic treatment is not warranted.

[12] *See K.W.*, Docket No. 10-0098 (issued September 10, 2010).

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

ORDER

IT IS HEREBY ORDERED THAT the July 10, 2017 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: August 23, 2018
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