

ISSUE

The issue is whether appellant met her burden of proof to establish an emotional condition causally related to the accepted March 15, 2015 employment injury.

FACTUAL HISTORY

On March 17, 2015 appellant, then a 56-year-old health technician, filed a traumatic injury claim (Form CA-1) alleging that, on March 15, 2015, she sustained post-traumatic stress disorder (PTSD) when she was attacked from behind by a patient while in the performance of duty. It was not noted on the claim form whether appellant had stopped work. OWCP accepted the claim for neck abrasion and cervical sprain.

A March 18, 2015 work excuse/disability form with an illegible signature related that appellant was disabled from work until March 24, 2015 due to PTSD and cervical, lumbar, and shoulder strains. The form noted that appellant had been assaulted by a patient on March 15, 2015.

In a March 31, 2015 letter, Dr. Mairaj A. Khan, a treating Board-certified psychiatrist and neurologist, noted that appellant had been admitted to the Partial Hospital Program at ReDiscovery on March 30, 2015 for a two-week stay.

In March 31, 2015 psychological evaluation form, Dr. Khan detailed findings from appellant's psychiatric evaluation. He reported that appellant was tearful and related her history in nonlinear fashion. Dr. Khan noted a history of assault in 2010 and 2015. He diagnosed acute stress disorder.

The record contains psychiatric evaluation notes from March 26 to April 3, 2015 detailing therapy provided.

The record contains two pages of unsigned handwritten April 10, 2015 notes relating that appellant had been assaulted at work on April 16, 2010 and February 15, 2015. Appellant related that the 2015 assault caused her to have flashbacks to the 2010 assault. A psychiatric evaluation was performed and results noted.

By development letter dated April 28, 2015, OWCP informed appellant that the evidence submitted was insufficient to establish her emotional condition claim. It advised her of the type of medical and factual evidence required. OWCP afforded appellant 30 days to provide the requested information.

In response, appellant submitted progress notes and a psychiatric evaluation form dated April 10, 2015 from Dr. Innocent Anya, a treating psychiatrist. Dr. Anya diagnosed depressive disorder and PTSD. He noted that appellant had a recent trauma at work and he related her psychiatric findings.

In a May 1, 2015 report, Dr. Anya released appellant to return to work on May 4, 2015. He referred her to Pamela S. Taylor, Ph.D., for therapy to resolve the impact of the trauma and recommended a different work site to ease appellant's anxiety about her return to work. In

handwritten notes dated May 1, 2015, appellant's mental status and psychiatric findings were detailed. She reported having trouble sleeping and dizziness since March 15, 2015 when she was assaulted at work by a patient.

In a May 7, 2015 note, Dr. Taylor noted that appellant had been under her care from May 4 to 7, 2015 and that she was unable to work. She released appellant to return to work on May 8, 2015 and noted that she was not a threat to others or herself.

In reports dated March 18 and May 14, 2015, Dr. Sequita L. Richardson, a treating Board-certified family medicine practitioner, diagnosed PTSD and muscle strain. She noted that appellant had been assaulted by a patient at work on March 15, 2015. Physical examination findings were provided. Dr. Richardson referred appellant to a psychologist or psychiatrist. She advised appellant not to return to psychiatric floor where appellant worked.

In a May 28, 2015 report, Mark Carey, a counselor in training, and Tammy Jackson, a licensed clinical psychologist, noted that appellant had undergone psychological testing on May 24, 2015. The report detailed relevant background history including family, work, and medical histories. Appellant described current problems including headaches, insomnia, feeling tense and panicky, depression, inferiority feelings, fatigue, and dizziness. She attributed her symptoms to work anxiety and stress and assaults at work in 2010 and 2015. Psychological tests were administered and results discussed. The report diagnosed PTSD and acute stress and observed that appellant had a history of malingering and bipolar disease. The report concluded that appellant met the criteria for diagnoses of PTSD, generalized anxiety disorder, and persistent depressive disorder (dysthymia). It was also noted that one of the tests revealed that appellant had a tendency to magnify her illness or emotional condition, which could be interpreted as malingering. However, the report indicated that further testing was required as appellant was experiencing emotional distress and it was uncertain to what extent malingering was present.

Dr. Taylor, in a May 28, 2015 report, diagnosed PTSD, generalized anxiety disorder, and persistent depression disorder. She recommended that appellant be removed from her current work unit to another unit to relieve her anxiety.

By decision dated July 8, 2016, OWCP accepted that appellant had established a compensable factor of employment as she had been grabbed by a patient, but denied her claim for stress. It explained that none of the medical evidence appellant submitted explained how the diagnosed emotional condition had been caused or aggravated by the accepted March 15, 2015 employment injury.

In a letter dated July 18, 2016 and received on July 20, 2016, appellant, through counsel, requested a telephonic hearing before an OWCP hearing representative, which was held on March 14, 2017.

On April 24, 2017 OWCP received an undated narrative report from Dr. Taylor. Dr. Taylor noted that appellant had been referred by Dr. Anya. Appellant expressed fear of returning to work on the unit where she had recently been attacked by a patient. An intake session was performed on May 7, 2015 and appellant began treatment on May 18, 2015. During the initial treatment sessions, she expressed fear of being assaulted again at her worksite.

Dr. Taylor diagnosed PTSD and recommended appellant be reassigned to work in another department and that she continue with therapy.

By decision dated May 25, 2017, OWCP's hearing representative affirmed the July 8, 2016 decision denying appellant's emotional condition claim. She found that appellant failed to submit a medical opinion explaining how the diagnosed conditions had been caused or aggravated by the accepted March 15, 2015 employment injury.

LEGAL PRECEDENT

An employee seeking benefits under FECA³ 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 filed within the applicable time limitation, that an injury was sustained while 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.⁴ These are the essential elements of each and every compensation claim regardless of whether the claim is predicated on a traumatic injury or an occupational disease.⁵

To determine whether a federal employee has sustained a traumatic injury in the performance of duty it must first be determined whether a fact of injury has been established.⁶ First, the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time and 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

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 a causal relationship between the claimed condition and the identified factors.¹⁰ Rationalized medical opinion evidence is medical evidence which includes a

³ 5 U.S.C. § 8101 *et seq.*

⁴ *C.S.*, Docket No. 08-1585 (issued March 3, 2009); *Bonnie A. Contreras*, 57 ECAB 364 (2006).

⁵ *S.P.*, 59 ECAB 184 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

⁶ *B.F.*, Docket No. 09-0060 (issued March 17, 2009); *Bonnie A. Contreras*, *supra* note 4.

⁷ *D.B.*, 58 ECAB 464 (2007); *David Apgar*, 57 ECAB 137 (2005).

⁸ *C.B.*, Docket No. 08-1583 (issued December 9, 2008); *D.G.*, 59 ECAB 734 (2008); *Bonnie A. Contreras*, *supra* note 4.

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 *Y.J.*, Docket No. 08-1167 (issued October 7, 2008); *A.D.*, 58 ECAB 149 (2006); *D'Wayne Avila*, 57 ECAB 642 (2006).

physician's rationalized opinion on whether there is causal relationship between the employee's diagnosed condition and the work incident.¹¹ The opinion of the physician must be based on a complete factual and medical background of the employee, 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 incident.¹² The belief of the claimant that a condition was caused or aggravated by the employment is insufficient to establish a causal relationship.¹³

ANALYSIS

OWCP accepted that appellant established a compensable factor of employment when a patient grabbed her from behind on March 15, 2015. It accepted the claim for neck abrasions and cervical sprain. However, OWCP found that appellant failed to submit rationalized medical evidence explaining how the diagnosed conditions of PTSD, generalized anxiety disorder, and persistent depression disorder had been caused or aggravated by the accepted March 15, 2015 injury.

The Board finds that appellant has failed to meet her burden of proof to establish an emotional condition causally related to the accepted employment injury.

Appellant submitted a number of reports from Dr. Khan, Dr. Anya, Dr. Richardson, and Dr. Taylor. In these reports, the physicians recited appellant's history of injury on March 15, 2015 and diagnosed PTSD as well as acute stress disorder, and depressive disorder. However, none of these physicians addressed the cause of the diagnosed conditions. Medical evidence that does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship.¹⁴ The Board notes that these reports fail to physiologically relate appellant's claimed emotional condition to the accepted employment injury.¹⁵ While these opinions are vaguely supportive of appellant's claim, the Board finds that they do not offer any medical explanation as to how the accepted incident at work would have caused the diagnosed conditions. Therefore, these reports are of limited probative value.¹⁶ The Board has held that a physician's opinion is not dispositive merely because it is offered by a physician.¹⁷ To be of probative value to appellant's claim, the physician must provide a proper factual background and must provide medical rationale which explains the medical issue at hand, be that whether the current condition is disabling or whether the current condition is causally

¹¹ *J.J.*, Docket No. 09-0027 (issued February 10, 2009); *Michael S. Mina*, 57 ECAB 379 (2006).

¹² *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 345 (1989).

¹³ *Kathryn Haggerty*, 45 ECAB 383 (1994).

¹⁴ *S.E.*, Docket No. 08-2214 (issued May 6, 2009); *A.D.*, 58 ECAB 149 (2006).

¹⁵ *Patricia O. Williams*, Docket No. 96-0546 (issued January 12, 1996).

¹⁶ *Ceferino L. Gonzales*, 32 ECAB 1591 (1981); *George Randolph Taylor*, 6 ECAB 968 (1954) (holding that medical conclusions unsupported by rationale are of little probative value).

¹⁷ See *Michael Stockert*, 39 ECAB 1186 (1988).

related to the accepted employment injury. Where no such explanation is present, the medical opinion is of diminished probative value.¹⁸

OWCP also received a May 28, 2015 report wherein Ms. Jackson, a clinical psychologist, detailed the psychological testing performed and discussed the results of the testing. Diagnoses included PTSD, generalized anxiety disorder, and persistent depressive disorder (dysthymia). No opinion was provided regarding the cause of the diagnosed condition. As discussed above, medical evidence containing no opinion as to the cause of the diagnosed condition is of diminished probative value.¹⁹ Thus, this report is also insufficient to meet appellant's burden of proof.

In support of her claim, appellant submitted a March 18, 2015 work excuse/disability with an illegible signature and ReDiscovery psychiatric evaluation notes from March 26 to April 3, 2015. The Board has long held that medical reports lacking proper identification, as to whether the author is a physician, cannot be considered as probative evidence in support of a claim.²⁰ These submissions did not meet appellant's burden of proof.

As appellant has not submitted any rationalized medical evidence to support her allegation that she sustained an emotional condition causally related to her accepted employment injury of March 15, 2015, she has failed to meet her burden of proof to establish her claim.

On appeal counsel contends that the hearing representative overlooked obvious evidence showing that the treatment appellant received for the emotional condition sustained was due to the March 15, 2015 assault. As discussed above, none of the medical evidence submitted by appellant provides a rationalized opinion explaining how the diagnosed conditions had been caused or aggravated by the accepted March 15, 2015 employment injury. The medical evidence either offered no opinion as to the cause or was unsupported by rationale.

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.

CONCLUSION

The Board finds that appellant has not established an emotional condition causally related to the accepted March 15, 2015 employment injury.

¹⁸ *Supra* note 16.

¹⁹ *Id.*

²⁰ *D.D.*, 57 ECAB 734 (2006).

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated May 25, 2017 is affirmed.

Issued: January 29, 2018
Washington, DC

Patricia H. Fitzgerald, Deputy 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