



## ISSUE

The issue is whether appellant met her burden of proof to establish a traumatic injury causally related to an April 4, 2016 employment incident.

On appeal counsel asserts that the medical evidence, as shown on a June 30, 2016 attending physician's report (Form CA-20) establishes the claim.

## FACTUAL HISTORY

On April 6, 2016 appellant, then a 65-year-old individual taxpayer advisory specialist, filed a traumatic injury claim (Form CA-1) alleging that, on April 4, 2016, she injured both knees, both hips, neck, back, and shoulders when she slipped and fell at the employing establishment. She stopped work on April 4, 2016. The employing establishment controverted the claim.

By development letter dated April 8, 2016, OWCP informed appellant of the evidence needed to accept her claim. In a separate letter of that date, it requested that the employing establishment provide information regarding the premises where she fell.

In correspondence dated April 13, 2016, appellant requested reasonable accommodation due to the April 4, 2016 fall. She indicated that she was withdrawing her workers' compensation claim and that she would return to work on April 22, 2016.

In support of her claim appellant submitted discharge instructions dated April 4, 2016, signed by a nurse with an illegible signature, noting a discharge diagnosis of headache. A lumbar spine x-ray on April 7, 2016 demonstrated no evidence of fracture or subluxation and mild degenerative changes. An April 7, 2016 x-ray of the right shoulder demonstrated no evidence of fracture or subluxation and degenerative changes of the acromioclavicular joint. An April 7, 2016 x-ray of the right knee demonstrated moderate-to-severe tricompartmental degenerative changes. Dr. Jacquelin A. Belamy, a family physician, completed a reasonable accommodation request on April 13, 2016. He diagnosed severe arthritis of the right shoulder, lumbar spine, and right knee and advised that appellant could return to modified duty on April 22, 2016.

In correspondence dated May 12, 2016, OWCP acknowledged appellant's request to withdraw her claim and advised her that no further action would be taken. On May 19, 2016 appellant requested that her claim be reopened. The employing establishment later provided a May 13, 2016 statement from a manager advising OWCP that its office space was rented. The manager provided a diagram showing the location of appellant's fall.

In correspondence dated May 26, 2016, OWCP acknowledged appellant's May 19, 2016 request to reopen her claim. It informed her to provide the information requested in its April 8, 2016 development letter.

By decision dated May 31, 2016, OWCP denied appellant's claim finding that the April 4, 2016 incident occurred as alleged, but that the evidence submitted was insufficient to establish that a medical condition resulted from the April 4, 2016 incident.

Appellant, through counsel, timely requested a hearing with OWCP's Branch of Hearings and Review. Additional medical evidence submitted included an April 4, 2016 computerized tomography (CT) scan of the head that was negative. On a disability slip dated April 5, 2016, Dr. Belamy indicated that appellant was under his care and should be able to return to full duty on April 14, 2016. Emergency department discharge instructions dated May 3, 2016, signed by a nurse with an illegible signature noted that appellant was seen for a hypertensive episode. Discharge diagnoses were high blood pressure and headache.

On May 9, 2016 Dr. Charles J. Pearlman, an orthopedic surgeon, noted that appellant was treated that day. A May 23, 2016 cervical spine x-ray demonstrated mild-to-moderate degenerative changes. A cervical spine magnetic resonance imaging (MRI) scan that day showed moderate multilevel degenerative disc disease causing varying degrees of spinal canal and neural foraminal stenosis. On a June 8, 2016 duty status report (Form CA-17) Dr. Pearlman diagnosed cervicgia due to disc herniation and advised that appellant could return to full duty. On June 30, 2016 he noted that appellant was seeing him for orthopedic care. In an attending physician's report (Form CA-20) dated June 30, 2016, Dr. Pearlman noted a history that on April 4, 2016 appellant fell at work. He diagnosed cervicgia, cervical sprain, and C3-4 and C5-6 disc herniation. Dr. Pearlman did not provide a work-related diagnosis.

Dr. Nicholas Justin Vaccari, Board-certified in emergency medicine, provided a diagnosis of musculoskeletal pain in a July 25, 2016 emergency department report. An x-ray of the pelvis on July 25, 2016 demonstrated a total hip prosthesis on the right. A lumbosacral spine x-ray that day showed mild degenerative spondylosis of the lumbosacral spine and was negative for fracture. A left knee x-ray demonstrated degenerative joint disease of the left knee and was negative for fracture.

On August 1, 2016 Dr. Pearlman again indicated that appellant was under his orthopedic care. On August 31, 2016 Dr. Michael M. Alexiades, a Board-certified orthopedic surgeon, diagnosed bilateral hip strain.

The record also includes an e-mail from appellant dated April 4, 2016 in which she indicated that she had unsuccessfully tried to complete an accident report regarding her slip and fall that day.<sup>3</sup>

A hearing was held on February 16, 2017. Appellant indicated that when she fell she hurt her neck, shoulders, knees, back, left hand, and left ankle, and had headaches. She advised that she returned to work on April 22, 2016. The hearing representative informed appellant of the evidence needed to establish a causal relationship between the April 4, 2016 fall and any diagnosed condition. The record was held open for 30 days. Nothing further was submitted.

---

<sup>3</sup> Appellant also submitted a March 18, 2013 operative report from Dr. Alexiades, who performed a right total hip replacement, and his July 11, 2013 reasonable accommodation request. Also received was a June 8, 2016 e-mail from an employing establishment workers' compensation specialist advising appellant that she could follow appeal rights in OWCP's May 31, 2016 decision, and correspondence from appellant to counsel.

In a May 3, 2017 decision, OWCP's hearing representative affirmed the May 31, 2016 decision, finding the medical evidence of record insufficient to establish that a medical condition was caused by the April 4, 2016 employment incident.

### **LEGAL PRECEDENT**

An employee seeking compensation under FECA<sup>4</sup> has the burden of proof to establish the essential elements of his or her claim by the weight of reliable, probative, and substantial evidence,<sup>5</sup> including that he or she is an employee within the meaning of FECA, and that the claim was filed within the applicable time limitation. The employee must also establish that he sustained an injury in the performance of duty as alleged, and that his disability from work, if any, was causally related to the employment injury.<sup>6</sup>

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. There are two components involved in establishing fact of injury. First, the employee must submit sufficient evidence to establish that he actually experienced the employment incident at the time, place, and in the manner alleged. Second, the employee must submit medical evidence to establish that the employment incident caused a personal injury.<sup>7</sup>

Causal relationship is a medical issue, and the evidence required to establish causal relationship is rationalized medical evidence.<sup>8</sup> 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 employee.<sup>9</sup> 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 causal relationship.<sup>10</sup>

---

<sup>4</sup> *Supra* note 2.

<sup>5</sup> *J.P.*, 59 ECAB 178 (2007).

<sup>6</sup> *Id.*; *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989). OWCP regulations define a traumatic injury as a condition of the body caused by a specific event or incident or series of events or incidents within a single workday or shift. 20 C.F.R. § 10.5(ee). OWCP regulations define the term "occupational disease or illness" as a condition produced by the work environment over a period longer than a single workday or shift." 20 C.F.R. § 10.5(q).

<sup>7</sup> *T.H.*, 59 ECAB 388 (2008).

<sup>8</sup> *Jacqueline M. Nixon-Steward*, 52 ECAB 140 (2000).

<sup>9</sup> *Leslie C. Moore*, 52 ECAB 132 (2000); *Gary L. Fowler*, 45 ECAB 365 (1994).

<sup>10</sup> *Dennis M. Mascarenas*, 49 ECAB 215 (1997).

## ANALYSIS

The Board finds that although it is undisputed that the April 4, 2016 incident occurred as alleged, the medical evidence submitted by appellant is insufficient to establish that this incident resulted in an employment injury.

Medical evidence submitted to support a claim for compensation should reflect a correct history and the physician should offer a medically sound explanation of how the claimed work event caused or aggravated the claimed condition.<sup>11</sup> The Board finds that no physician did so in this case.

The diagnostic studies including x-rays, a head CT scan, and a cervical MRI scan did not provide a cause of any diagnosed conditions. Medical evidence that does not offer an opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship.<sup>12</sup> Likewise, the reports of Dr. Belamy, Dr. Pearlman, Dr. Vaccari, and Dr. Alexiades did not include an opinion as to the cause of any diagnosed condition.

As to the emergency department reports dated April 4 and May 3, 2016, the signatures on the reports were illegible. The Board has held that medical reports lacking proper identification cannot be considered as probative evidence in support of a claim.<sup>13</sup> Furthermore, nurses are not considered physicians as defined under FECA and their opinions are therefore of no probative value.<sup>14</sup>

On appeal counsel maintains that the June 30, 2016 attending physician's report completed by Dr. Pearlman established appellant's claim. A close inspection of that report, however, merely indicates that, while Dr. Pearlman referenced the April 4, 2016 fall at work and diagnosed cervicalgia, cervical sprain, and C3-4 and C5-6 disc herniation, he did not provide a work-related diagnosis or indicate in any way that the diagnosed condition was employment related.

It is appellant's burden of proof to establish that a diagnosed condition is causally related to the accepted April 4, 2016 employment incident. As appellant submitted insufficient evidence to establish an injury caused by this incident, she has failed to meet her burden of proof.

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.

---

<sup>11</sup> *D.D.*, Docket No. 13-1517 (issued April 14, 2014).

<sup>12</sup> *Willie M. Miller*, 53 ECAB 697 (2002).

<sup>13</sup> *D.D.*, 57 ECAB 734 (2006).

<sup>14</sup> 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 as defined by State law. 5 U.S.C. § 8101(2); *see E.H.*, Docket No. 08-1862 (issued July 8, 2009).

**CONCLUSION**

The Board finds that appellant failed to establish a traumatic injury causally related to the accepted April 4, 2016 employment incident.

**ORDER**

**IT IS HEREBY ORDERED THAT** the May 3, 2017 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: January 12, 2018  
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