

ISSUE

The issue is whether appellant has met his burden of proof to establish a traumatic injury causally related to the accepted April 7, 2017 employment incident.

FACTUAL HISTORY

On April 13, 2017 appellant, then a 58-year-old program specialist, filed a traumatic injury claim (Form CA-1) alleging that, on April 7, 2017, a veteran attempted to run over him with a scooter, causing injury to his right arm and shoulder while in the performance of duty. He specifically noted that he had put his hands out to stop the scooter and his right arm and hand took the brunt of the forward momentum of the scooter.

In a development letter dated April 19, 2017, OWCP requested additional factual and medical evidence in support of appellant's traumatic injury claim. It afforded him 30 days to respond.

Appellant provided a statement describing the events of April 7, 2017. He related that he entered a coworker's office in response to a question and addressed the answer to his coworker and the veteran. The veteran informed appellant that he was of no help, and that he did not want to talk to him. The veteran then drove his scooter in reverse out of the office. The veteran informed appellant that he did not like him, that he was useless, and against veterans. Appellant asked him to leave and pushed the handicap button to open the door. The veteran then drove his scooter straight toward appellant, causing appellant to move and put out his hands to stop him from running into him. Appellant accused the veteran of purposely trying to strike him and instructed him to wait for the police. The veteran then attempted to run into appellant again. A witness statement confirmed that the veteran backed out of the office, looked at appellant and ran into him with his scooter.

Appellant sought treatment on April 13, 2017 from the employing establishment health clinic. An unsigned report revealed that he was hit by a veteran in an electric scooter resulting in right arm pain from the wrist to the shoulder. The diagnosis given was right shoulder and arm pain.

Dr. Georgia Gill, a Board-certified orthopedic surgeon, examined appellant on May 10, 2017 for his right shoulder. She described appellant's right shoulder pain as well as his history of injury on April 7, 2017 when a patient ran into him while operating a motorized scooter and appellant tried to stop the scooter with his hand. Dr. Gill diagnosed right shoulder acromioclavicular (AC) joint arthritis, subacromial and outlet impingement bursitis, rotator cuff tendinopathy with partial tears, as well as cervical radiculopathy.

On May 10, 2017 Dr. Ronald K.J. Williams, an osteopath, noted appellant's April 7, 2017 claimed employment incident which resulted in shoulder and neck pain. He diagnosed right rotator cuff injury/pain, history of cluster headaches, cervical radiculopathy and left upper extremity pain, lumbar degenerative disc disease, and left shoulder impingement syndrome with a 2015 rotator cuff repair.

By decision dated June 1, 2017, OWCP denied appellant's traumatic injury claim, finding that the medical evidence of record did not demonstrate that his diagnosed conditions were causally related to his accepted employment incident. It noted that the medical evidence did not establish a causal link between his diagnoses and the accepted work incident.

LEGAL PRECEDENT

An employee seeking benefits under FECA³ has the burden of proof to establish the essential elements of his or her claim by the weight of the reliable, probative, and substantial evidence, 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 or specific condition for which compensation is claimed is causally related to the employment injury.⁴

OWCP defines 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. Such condition must be caused by external force, including stress or strain which is identifiable as to time and place of occurrence and member or function of the body affected."⁵ In order to determine whether an employee actually sustained an injury in the performance of duty, OWCP begins with an analysis of whether fact of injury has been established. Generally, fact of injury consists of two components which must be considered in conjunction with one another. The first component to be established is that the employee actually experienced the employment incident which is alleged to have occurred.⁶ The second component is whether the employment incident caused a personal injury and generally can be established only by medical evidence.⁷ An employee may establish that an injury occurred in the performance of duty as alleged, but fail to establish that the disability or specific condition for which compensation is being claimed is causally related to the injury.⁸

Causal relationship is a medical issue and the medical evidence required to establish causal relationship is rationalized medical 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

³ *Supra* note 1.

⁴ *Kathryn Haggerty*, 45 ECAB 383, 388 (1994).

⁵ 20 C.F.R. § 10.5(ee).

⁶ *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁷ *Id.*; *M.P.*, Docket No. 17-1221 (issued August 21, 2017).

⁸ *Shirley A. Temple*, 48 ECAB 404, 407 (1997); *M.P.*, *id.*.

⁹ *Jacqueline M. Nixon-Steward*, 52 ECAB 140 (2000).

the employee.¹⁰ 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.¹¹

ANALYSIS

The Board finds that, although it is undisputed that the April 7, 2017 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.¹² The Board finds that in these regards no physician did so in this case.

On April 13, 2017 appellant sought treatment from the employing establishment health clinic and reported that he was hit by a veteran in an electric scooter resulting in pain in his right arm from the wrist to the shoulder. There is no signature on this document. The Board has held that medical reports lacking proper identification cannot be considered as probative evidence in support of a claim.¹³

Appellant provided reports from Drs. Williams and Gill noting that appellant was involved in an April 7, 2017 incident at work. On May 10, 2017 Dr. William diagnosed shoulder and neck pain. The Board has held that the mere diagnosis of “pain” does not constitute the basis for payment of compensation.¹⁴ Thus, this report does not establish a diagnosed condition resulting from the April 7, 2017 employment incident. Dr. Gill diagnosed several right shoulder conditions including arthritis, subacromial bursitis, tendinopathy and partial tears, but did not provide a work-related diagnosis or indicate that these conditions were employment related.¹⁵

It is appellant’s burden of proof to establish that a diagnosed condition is causally related to the accepted April 7, 2017 employment incident. As appellant submitted insufficient evidence to establish an injury caused by this incident, he has failed to meet his 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.

¹⁰ *Leslie C. Moore*, 52 ECAB 132 (2000); *Gary L. Fowler*, 45 ECAB 365 (1994).

¹¹ *Dennis M. Mascarenas*, 49 ECAB 215 (1997).

¹² *E.B.*, Docket No. 17-1862 (issued January 12, 2018).

¹³ *Id.*; *D.D.*, 57 ECAB 734 (2006).

¹⁴ *Robert Broome*, 55 ECAB 339 (2004).

¹⁵ *E.B.*, *supra* note 11.

CONCLUSION

The Board finds that appellant failed to establish a traumatic injury causally related to the accepted April 7, 2017 employment incident.

ORDER

IT IS HEREBY ORDERED THAT the June 1, 2017 merit decision of the Office of Workers' Compensation Programs is affirmed.

Issued: March 5, 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