

ISSUE

The issue is whether appellant has established that her right elbow condition was causally related to her February 26, 2014 accepted employment injury.

FACTUAL HISTORY

On March 18, 2014 appellant, then a 47-year-old supervisor in customer services, filed a traumatic injury claim (CA-1) alleging that on February 26, 2014 she sprained her right knee when she slipped on ground covered by snow and ice in the performance of her federal employment duties. In a supporting statement, she alleged that on February 26, 2014 she twisted her right knee and fell down, landing on the inside of her right knee, foot and on her right elbow. Appellant stopped work on March 11, 2014 and returned to work on March 17, 2014. The employing establishment controverted the claim.

In a March 13, 2014 report, Dr. Daniel A. Shaw, a Board-certified orthopedic surgeon, noted that appellant reported discomfort following a work-related injury on February 26, 2014 when she slipped on ice and reported injuring her right knee, foot, and elbow. He noted that she has been trying to work in the meantime, but that her symptomatology persisted. Dr. Shaw diagnosed right knee sprain with possible torn meniscus and right forefoot sprain. Appellant continued to submit reports by Dr. Shaw that discussed his treatment of her right knee.

By development letter dated May 27, 2014, OWCP informed appellant that additional factual and medical information was necessary to establish her claim. It afforded her 30 days to submit the necessary information. No additional information was received.

In a July 2, 2014 decision, OWCP denied appellant's claim, finding that she had not established that she was in the performance of duty at the time of the alleged incident.

On July 16, 2014 appellant, through counsel, requested a hearing before an OWCP hearing representative. During the hearing held on November 25, 2014, appellant testified that she began working for the employing establishment on June 23, 2007, and that, on the date of injury, she was working on rural accounts. She stated that there was no place to get coffee on the premises, and that while going to get coffee on an authorized break at a store a few doors down, she slipped and fell on ice that was covered by a small amount of snow. Appellant indicated that she injured her right foot, knee, and elbow. She testified that she kept working after the injury, but that eventually she saw Dr. Shaw because her symptoms continued. Counsel contended that she was injured in the performance of duty.

By decision dated January 20, 2015, the hearing representative determined that appellant was in the performance of duty when she fell. However, he denied her claim as he determined that the medical evidence was insufficient to establish causal relationship between a diagnosed condition and the accepted fall on February 26, 2014.

On January 19, 2016 appellant, through counsel, requested reconsideration. In support thereof, he submitted report from Dr. Shaw dated January 15, 2016. Dr. Shaw noted that she sought treatment on March 13, 2014 for an employment-related injury sustained on February 26,

2014 when “she slipped on ice and banged her right knee, foot, and elbow on concrete.” Appellant told him that she had concerns regarding her right knee, right foot, and right elbow. At that time, Dr. Shaw diagnosed right knee sprain, significant symptomatic exacerbation of previously asymptomatic patellofemoral arthritis, and right forefoot sprain. He summarized the test results and appellant’s treatment on her right knee and right foot. Dr. Shaw opined that within a reasonable degree of medical probability she sustained a work-related injury on February 26, 2014 which resulted in injuries to her right knee, right foot and right elbow. He explained that appellant falling and landing on her right knee, foot, and elbow on concrete was consistent with injury to her right knee, right foot, and right elbow. Dr. Shaw noted that, as manifest on her December 22, 2015 follow-up, her post-traumatic right knee pathology persisted and had not healed. He further opined that appellant’s right foot injury was directly caused by the accident of February 26, 2014 and noted a diagnosis of mild sprain of the right foot great toe metatarsophalangeal joint.

With regard to appellant’s right elbow, Dr. Shaw noted that her elbow was not prioritized until her most recent visit on December 22, 2015. He noted that at that time she did have significant tenderness at the medial aspect of the elbow associated with a stiffening sensation and a feeling of a “toothache in the elbow.” Appellant noted a jabbing/needle sensation aggravated by outstretch, reaching, or lifting, which had persisted since the time of the initial injury. Dr. Shaw noted that the right elbow examination demonstrated exquisite tenderness at the medial humeral epicondyle and mild soft tissue swelling. Radiographs of the right elbow showed a one centimeter void density superficial to the medial humeral epicondyle. Right elbow magnetic resonance imaging (MRI) scan was prescribed, but the results were not yet available, so a definitive right elbow diagnosis remained to be determined. Dr. Shaw continued to submit reports discussing his treatment of appellant’s right knee.

On April 15, 2016 OWCP vacated the decision of January 20, 2016 in part, noting that Dr. Shaw provided a well-reasoned medical report explaining exactly how the fall of February 26, 2014 caused a right knee sprain and a great toe sprain. It therefore accepted appellant’s claim for sprain of the right knee and right great toe. However, OWCP determined that the evidence was insufficient to overturn the entire decision because Dr. Shaw had not provided a discussion or a diagnosis regarding the right elbow condition.

In a progress note from his December 22, 2015 report, Dr. Shaw noted that an x-ray of appellant’s right elbow revealed a one centimeter ovoid density superficial to the medial humeral epicondyle. No significant intra-articular degenerative changes were noted. Dr. Shaw diagnosed work-related injury of February 26, 2014; right elbow medial epicondylitis, post-traumatic with medial epicondylar ossific density, symptomatic; right knee arthritis, post-traumatic; and right knee patellofemoral arthritis, post-traumatic.

Dr. Shaw continued to provide treatment and reports with regard to appellant’s right knee. Further notes detailing physical therapy on the right knee were also submitted.

In a September 23, 2016 report, Dr. Shaw noted that once appellant’s right knee symptomatology had diminished sufficiently, effective December 23, 2015 attention was able to be thoroughly focused on her right elbow symptomatology. He also noted that notes from Westfield Orthopedic Group indicated that she had scheduled appointments for evaluation of

right elbow symptomatology on August 29 and September 5, 2014, although she was not actually seen on those dates. Dr. Shaw noted that, when he saw appellant on December 22, 2015, she reported still being most severely affected by symptomatology not only in her right knee, but her right elbow. Appellant indicated that her right elbow pain had persisted since the time of the initial injury.

On October 5, 2016 appellant requested reconsideration. In support thereof, she submitted a February 27, 2016 MRI scan of the elbow report wherein Dr. Christina P. Annese, a Board-certified radiologist, found tendinosis of the common flexor tendon origin with questionable small focus of calcific tendinopathy and mild adjacent edema.

By decision dated June 29, 2017, OWCP denied modification of its April 15, 2016 decision because appellant had not submitted a medical narrative from a treating physician which established causal relationship for the right elbow condition and also discussed the mechanism of injury. It noted that since the earliest medical report that addressed her right elbow condition was dated December 22, 2015, which was one year and two months after her injury, appellant's treating physician must provide a rationalized causal relationship explanation based on complete and accurate factual and medical history. OWCP further noted that the physician should also explore and consider nonwork-related factors or contributions when providing his explanation regarding causal relationship.

LEGAL PRECEDENT

An employee has the burden of proof to establish that any specific condition for which compensation is claimed is causally related to the employment injury.⁴ Causal relationship is a medical issue, and the medical evidence required to establish causal relationship is rationalized medical evidence.⁵ 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.⁶ Neither the 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.⁷

ANALYSIS

Appellant alleged that she sustained injury to her right knee, foot, and elbow when she fell on ice in the performance of duty on February 26, 2014. OWCP accepted her claim for sprain of the right knee and right great toe.

⁴ *Kenneth R. Love*, 50 ECAB 193 (1998).

⁵ *Jacqueline M. Nixon-Steward*, 52 ECAB 140 (2000).

⁶ *Leslie C. Moore*, 52 ECAB 132 (2000); *Gary L. Fowler*, 45 ECAB 365 (1994).

⁷ *Dennis M. Mascarenas*, 49 ECAB 215 (1997).

The Board finds that appellant has not met her burden of proof to establish that her right elbow condition was caused or aggravated by the accepted February 26, 2014 employment injury.

In a progress note dated December 22, 2015, Dr. Shaw diagnosed additional conditions causally related to the February 26, 2014 employment injury: right elbow medial epicondylitis, post-traumatic with medial epicondylar ossific density, symptomatic; post-traumatic right knee osteoarthritis; and post-traumatic patellofemoral arthritis. In a September 23, 2006 report, he noted that initially the attention was focused on appellant's right knee, but that effective December 23, 2015 attention was able to now be focused on her right elbow symptomatology. Dr. Shaw noted that when he saw her on December 22, 2015, she reported still being affected by symptomatology not only in her right knee, but also in her right elbow.

The reports from Dr. Shaw are insufficient to establish appellant's claim for right elbow injury as they do not contain a rationalized medical opinion explaining how her diagnosed right elbow conditions were causally related to the February 26, 2014 employment injury. When Dr. Shaw first saw her with regard to the February 26, 2014 employment injury on March 13, 2014, he noted that in addition to complaining of pain in her right knee and foot, she also complained of right elbow pain. Dr. Shaw made no medical diagnosis with regard to appellant's right elbow at that time and did not discuss any injury to her right elbow until his report of December 22, 2015, at which time he concluded that she had symptomatic right elbow medial epicondylitis, post-traumatic, with medial epicondyle ossific density. In his January 15, 2016 note, he explained that priority prior to that time was given to dealing with her right knee condition, but that now her right elbow was having significant symptoms. Dr. Shaw noted that appellant hit her elbow when she fell, that she had persistent symptoms in her elbow since the employment injury, and that she had scheduled appointments to follow up with regard to her elbow, but that these appointments did not occur.

The Board finds that Dr. Shaw's opinion is not well rationalized. There is no evidence of any problem with appellant's right elbow in between Dr. Shaw's March 13, 2014 report and his December 22, 2015 report. Dr. Shaw's reports, with the above brief exceptions, only discuss her right knee and right foot. The fact that appellant scheduled an appointment with regard to her right elbow, but that the appointment did not take place is of no importance to determining whether she had a right elbow injury causally related to her accepted employment injury. Although Dr. Shaw suggested that her right elbow conditions were causally related to the accepted employment injury, he did not provide adequate medical rationale explaining the basis of his opinion regarding causal relationship.⁸ He did not discuss the February 26, 2014 employment injury in any detail or explain the medical process through which it could have been responsible for the diagnosed right elbow conditions.⁹ The Board has held that medical evidence which does not offer a clear opinion explaining the physiological cause of an employee's

⁸ *J.S.*, Docket No. 14-0818 (issued August 7, 2014).

⁹ *See R.B.*, Docket No. 16-1700 (issued September 25, 2017).

condition is of limited probative value on the issue of causal relationship.¹⁰ Dr. Shaw's reports were therefore insufficient to establish causal relationship.

The Board notes that the diagnostic study by Dr. Annese was also insufficient to meet appellant's burden of proof as she does not address whether the February 26, 2014 work injury caused the diagnosed conditions.¹¹ The Board has held that 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.¹²

To establish causal relationship, a claimant must submit a physician's report in which the physician reviews the employment injury identified as causing the claimed condition and, taking this injury into consideration as well as findings upon examination, explains with medical rationale how the employment injury caused or aggravated the diagnosed condition.¹³ The Board finds that appellant submitted insufficient rationalized medical evidence supporting causal relationship between the accepted February 26, 2014 employment injury and her right elbow condition.

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 that her right elbow condition was causally related to her February 26, 2014 employment injury.

¹⁰ *Id.*

¹¹ *G.M.*, Docket No. 14-2057 (issued May 12, 2015).

¹² *See T.N.*, Docket No. 17-0773 (issued October 2, 2017).

¹³ *M.R.*, Docket No. 17-1154 (issued January 10, 2018).

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated June 29, 2017 is affirmed.

Issued: March 13, 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