

**United States Department of Labor
Employees' Compensation Appeals Board**

M.H., Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Provo, UT, Employer**

)
)
)
)
)
)
)
)
)
)
)
)

**Docket No. 19-0162
Issued: July 3, 2019**

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

CHRISTOPHER J. GODFREY, Chief Judge
PATRICIA H. FITZGERALD, Deputy Chief Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On October 30, 2018 appellant filed a timely appeal from an August 2, 2018 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act¹ (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction to consider the merits of this case.

ISSUE

The issue is whether appellant has met her burden of proof to establish a right lower extremity injury causally related to the accepted April 24, 2018 employment incident.

FACTUAL HISTORY

On April 30, 2018 appellant, then a 47-year-old city carrier, filed a traumatic injury claim (Form CA-1) alleging that at 3:00 p.m. on April 24, 2018, she carried a heavy package on a hand cart up two flights of stairs and sustained a right leg strain while in the performance of duty. In a

¹ 5 U.S.C. § 8101 *et seq.*

supporting statement, she noted that the package weighed 50 to 70 pounds, was considered oversized, but had not been labeled as heavy or requiring a team lift. Appellant initially experienced a strained feeling in her right leg, with the onset of pain on April 25, 2018, and increasing symptoms through April 28, 2018. She stopped work on April 30, 2018 and accepted a full-time modified-duty assignment.

In reports dated April 30, 2018, Dr. Sean Biggs, an attending Board-certified family practitioner, noted appellant's history of right knee surgery in approximately 2010 and the April 24, 2018 employment incident. He obtained x-rays of the right lower extremity which demonstrated no fracture, dislocation, or other radiographic findings to suggest an etiology for right leg pain. Dr. Biggs opined that appellant had not sustained a specific injury, but that she had experienced right leg pain after she changed how she carried her mail satchel and had carried more heavy items. He diagnosed right leg pain related to work activities. In a state compensation form of even date and an attending physician's report (Form CA-20) dated May 10, 2018, Dr. Biggs responded "yes" to the question which asked if the diagnosed condition was caused or aggravated by an employment activity. He reiterated these opinions and noted work restrictions in reports through May 14, 2018.

In a report dated May 31, 2018, Dr. Biggs noted that a 10-day work absence and physical therapy had resolved appellant's right leg pain.² He released appellant from care effective June 11, 2018.

In a development letter dated June 19, 2018, OWCP informed appellant that the evidence submitted was insufficient to establish her traumatic injury claim. It advised her of the type of factual and medical evidence required to establish her claim. OWCP also emphasized that pain was not a valid diagnosis, but rather a symptom. It afforded appellant 30 days to respond.

In response, appellant submitted her July 13, 2018 statement. She recalled that, on April 24, 2018, she had delivered an oversized, heavy package and had used a hand truck to move the package to the stairs. Appellant also provided a report dated June 11, 2018 by Dr. Biggs in which he opined that appellant's condition had returned to baseline and released her from care.

By decision dated August 2, 2018, OWCP accepted that the April 24, 2018 employment incident had occurred as alleged. It denied the claim, however, because the evidence of record failed to establish a medical diagnosis in connection with the accepted April 24, 2018 employment again explaining that pain is a symptom and not a diagnosis of a medical condition. OWCP found that appellant had not satisfied the medical component of fact of injury and, therefore, had not met the requirements for establishing an injury as defined by FECA.

LEGAL PRECEDENT

An employee seeking benefits under FECA 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 timely filed within the applicable

² Appellant participated in physical therapy treatments commencing May 9, 2018.

time limitation period of FECA,³ that an injury was sustained in the performance of duty as alleged, and that any disability or medical condition for which compensation is claimed is 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 upon a traumatic injury or an occupational disease.⁵ In order to determine whether an employee sustained a traumatic injury in the performance of duty, OWCP begins with an analysis of whether fact of injury has been established. 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

Causal relationship is a medical issue, and the medical evidence required to establish causal relationship is rationalized medical evidence.⁸ 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.⁹ 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.¹⁰

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish a right lower extremity injury causally related the accepted April 24, 2018 employment incident.

In his reports from April 30 and May 10, 2018, Dr. Biggs diagnosed right leg pain. In its June 19, 2018 development letter, OWCP properly advised appellant that pain is a symptom, not

³ *S.B.*, Docket No. 17-1779 (issued February 7, 2018); *J.P.*, 59 ECAB 178 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

⁴ *J.M.*, Docket No. 17-0284 (issued February 7, 2018); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

⁵ *K.M.*, Docket No. 15-1660 (issued September 16, 2016); *L.M.*, Docket No. 13-1402 (issued February 7, 2014); *Delores C. Ellyett*, 41 ECAB 992 (1990).

⁶ *R.E.*, Docket No. 17-0547 (issued November 13, 2018); *David Apgar*, 57 ECAB 137 (2005); *Delphyne L. Glover*, 51 ECAB 146 (1999).

⁷ *A.F.*, Docket No. 17-1374 (issued March 19, 2019); *T.H.*, Docket No. 18-1736 (issued March 13, 2019); *R.E.*, *supra* note 5.

⁸ *T.H.*, *id.*; *G.N.*, Docket No. 18-0403 (issued September 13, 2018); *Jacqueline M. Nixon-Steward*, 52 ECAB 140 (2000).

⁹ *K.V.*, Docket No. 18-0723 (issued November 9, 2018); *Leslie C. Moore*, 52 ECAB 132 (2000); *Gary L. Fowler*, 45 ECAB 365 (1994).

¹⁰ *Dennis M. Mascarenas*, 49 ECAB 215 (1997).

a valid medical diagnosis.¹¹ It also afforded appellant an opportunity to submit a narrative medical report from her physician, which included a medical diagnosis and an opinion on causal relationship. OWCP subsequently received Dr. Biggs' June 11, 2018 report which released appellant from care as the diagnosed right lower extremity pain had resolved. The Board has consistently held that a diagnosis of pain does not constitute a basis for payment of compensation, as pain is a symptom rather than a specific diagnosis.¹² As such, Dr. Biggs' reports are insufficient to establish a medical diagnosis in connection with the accepted May 24, 2018 employment incident.¹³

Appellant has not submitted medical evidence from a physician other than Dr. Biggs, and as such, the record of evidence does not contain a medical diagnosis from a physician. Accordingly, the Board finds that appellant has not met her burden of proof to establish her traumatic injury claim.

On appeal appellant contends that the medical evidence of record met her burden of proof to establish causal relationship between the claimed right leg injury and the accepted April 24, 2018 employment incident. For the reasons set forth herein, she has not met 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.

CONCLUSION

The Board finds that appellant has not met her burden of proof to establish a right lower extremity injury causally related the accepted April 24, 2018 employment incident.

¹¹ Findings of pain or discomfort alone do not satisfy the medical aspect of the fact of injury medical determination. Federal (FECA) Procedure Manual, Part 2 -- Claims, *Fact of Injury*, Chapter 2.803.4a(6) (August 2012). See also *A.F.*, *supra* note 7.

¹² *A.F.*, *supra* note 7; *Robert Broome*, 57 ECAB 339, 342 (2004).

¹³ *A.F.*, *supra* note 7.

ORDER

IT IS HEREBY ORDERED THAT the August 2, 2018 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: July 3, 2019
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