

FACTUAL HISTORY

On January 17, 2018 appellant, then a 30-year-old carrier technician, filed a traumatic injury claim (Form CA-1) alleging that on that date he experienced a contusion and bruises to his right hip and buttocks when he slipped on ice and fell down while at work. He stopped work on January 17, 2018.³

Appellant was initially treated by Dr. Kristen Knoepka, a Board-certified family practitioner. In a January 17, 2018 treatment note, Dr. Knoepka indicated that appellant could return to work on January 20, 2018.

In work restriction notes dated January 30, February 28, and March 12 and 26, 2018, Megan Weimer, a nurse practitioner, diagnosed “left hip injury.” She reported a January 17, 2018 date of injury when appellant “fell on ice while delivering mail.” Ms. Weimer related that appellant could return to work with restrictions on January 31, 2018 and without restrictions later on March 27, 2018.

In a February 7, 2018 work restriction letter, Dr. Erin Trost, a Board-certified family practitioner, related that appellant fell on ice while delivering mail. She indicated that appellant could return to full-time work with restrictions.

In an April 13, 2018 development letter, OWCP advised appellant that additional medical evidence was necessary to establish his claim. It explained that no diagnosed condition from his injury had been received. The referenced “left hip injury” was too vague to satisfy the medical component of fact of injury. OWCP afforded appellant 30 days to provide the necessary information. No response was provided.

By decision dated June 5, 2018, OWCP denied appellant’s claim. It accepted that the January 17, 2018 incident occurred as alleged, but denied his claim finding that appellant had failed to establish the medical component of fact of injury. OWCP determined that the medical evidence of record did not contain a medical diagnosis in connection with the accepted January 17, 2018 employment incident. Therefore, appellant did not meet the requirements to establish 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 time limitation period of FECA,⁴ and 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

³ Appellant returned to work on January 31, 2018.

⁴ *S.B.*, Docket No. 17-1779 (issued February 7, 2018); *J.P.*, 59 ECAB 178 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

related to the employment injury.⁵ 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.⁶

In order to determine whether a federal employee has sustained a traumatic injury in the performance of duty, OWCP must first determine whether fact of injury has been established.⁷ There are two components involved in establishing fact of injury. First, the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time, place, and in the manner alleged.⁸ Second, the employee must submit evidence, generally only in the form of probative medical evidence, to establish that the employment incident caused a personal injury.⁹ An employee may establish that the employment incident occurred as alleged, but fail to establish that his or her disability or specific condition for which compensation is being claimed is causally related to the injury.¹⁰

Whether an employee sustained an injury in the performance of duty requires the submission of rationalized medical opinion evidence.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 factors identified by the employee.¹² The weight of the medical evidence is determined by its reliability, its probative value, its convincing quality, the care of analysis manifested, and the medical rationale expressed in support of the physician's opinion.¹³

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish an injury causally related to the accepted January 17, 2018 employment incident.

Dr. Knoepka treated appellant on January 17, 2018. She related that he could return to work on January 20, 2018. Dr. Knoepka did not include a specific history of injury or provide a

⁵ *J.M.*, Docket No. 17-0284 (issued February 7, 2018); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

⁶ *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).

⁷ *S.P.*, 59 ECAB 184 (2007); *Alvin V. Gadd*, 57 ECAB 172 (2005).

⁸ *Bonnie A. Contreras*, 57 ECAB 364 (2006); *Edward C. Lawrence*, 19 ECAB 442 (1968).

⁹ *David Apgar*, 57 ECAB 137 (2005); *John J. Carlone*, 41 ECAB 354 (1989).

¹⁰ *T.H.*, 59 ECAB 388 (2008); *see also Roma A. Mortenson-Kindschi*, 57 ECAB 418 (2006).

¹¹ *See J.Z.*, 58 ECAB 529 (2007); *Paul E. Thams*, 56 ECAB 503 (2005).

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

¹³ *James Mack*, 43 ECAB 321 (1991).

medical diagnosis. This report, therefore, is insufficient to satisfy appellant's burden of proof with respect to the medical component of fact of injury.¹⁴ Likewise, Dr. Trost's February 7, 2018 report mentions that appellant fell on ice, however, it also fails to establish the medical component of fact of injury because she did not provide a medical diagnosis in connection with the accepted January 17, 2018 employment incident.¹⁵

Appellant also submitted work restriction letters dated January 30 to March 26, 2018 by a nurse practitioner, who noted a diagnosis of left hip injury. These letters are of no probative value, however, because a nurse practitioner is not considered a physician as defined under FECA.¹⁶

There is no evidence of record that establishes an injury in connection with the accepted January 17, 2018 employment incident. Consequently, appellant 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.

CONCLUSION

The Board finds that appellant has not met his burden of proof to establish an injury causally related to the accepted January 17, 2018 employment incident.

¹⁴ *F.U.*, Docket No. 18-0078 (issued June 6, 2018); *Deborah L. Beatty*, 54 ECAB 340 (2003).

¹⁵ *Id.*

¹⁶ *See M.M.*, Docket No. 17-1641 (issued February 15, 2018); *K.J.*, Docket No. 16-1805 (issued February 23, 2018); *David P. Sawchuk*, 57 ECAB 316, 320 n.11 (2006) (lay individuals such as physician assistants, nurses, and physical therapists are not competent to render a medical opinion under FECA); 5 U.S.C. § 8101(2) (this subsection defines a physician as surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, and osteopathic practitioners within the scope of their practice as defined by state law).

ORDER

IT IS HEREBY ORDERED THAT the June 5, 2018 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: March 5, 2019
Washington, DC

Christopher J. Godfrey, 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