United States Department of Labor
Employees' Compensation Appeals Board

R.A., Appellant	)	
and	)	**Docket No. 19-0938**
	)	**Issued: November 20, 2019**
DEPARTMENT OF THE AIR FORCE, OFFICE OF SPECIAL INVESTIGATIONS, Quantico, VA, Employer	)	

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

Case Submitted on the Record

DECISION AND ORDER

Before:
PATRICIA H. FITZGERALD, Deputy Chief Judge
JANICE B. ASKIN, Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On March 29, 2019 appellant filed a timely appeal from a January 24, 2019 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act[1] (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

ISSUE

The issue is whether appellant has met her burden of proof to establish a head injury causally related to the accepted March 27, 2014 employment incident.

FACTUAL HISTORY

On April 28, 2014 appellant, then a 49-year-old administration support assistant, filed a traumatic injury claim (Form CA-1) alleging that on March 27, 2014 she injured her head, resulting

[1] 5 U.S.C. § 8101 *et seq.*

in headaches, and right shoulder pain due to falling while in the performance of duty. She related that she was on a step stool scanning files on a top shelf when she fell and hit her head and landed on her right shoulder. Appellant stopped working on the date of injury and then returned to work on March 31, 2014. On the reverse side of the claim form, the employing establishment indicated that the "workplace mishap" was unwitnessed and she did not recall any details of the alleged injury.

On March 27, 2014 Dr. Brian Wexler, a Board-certified emergency medicine specialist, diagnosed head injury and acute cervical strain and advised appellant not to work for two days.

In an incident report dated April 3, 2014, appellant's supervisor indicated that appellant was on a two-step stool scanning files on a top shelf when there was a loud sound. Appellant's coworker, M.P., found appellant on the floor lying on her right side still holding the scanning gun she was using. When asked what happened, appellant stated that she did not remember, but was feeling a little light-headed. The employing establishment noted that it had instructed employees to utilize the handrails on the safety steps to help increase stability and safety while using the steps.

On April 10, 2014 Dr. Roshan Kalim, a Board-certified family practitioner, indicated that appellant had been experiencing headaches since her fall on March 27, 2014 and asserted that the headaches were worsened by light, sound, and staring at a computer for long hours. She indicated that a magnetic resonance imaging (MRI) scan of the head showed a mass for which appellant had an appointment with neurology/neurosurgery to further evaluate later that month.

In an April 27, 2014 letter, the employing establishment indicated that appellant was asked two weeks after the incident if she could recall any details that would help it understand the nature of the incident and how it might prevent any future incidents. Appellant restated her account of the incident, but stated that she could not recall any details of the fall from her step stool.

On May 7, 2014 Dr. Kalim opined that appellant had a syncopal episode and a work-up revealed a right frontal meningioma. Appellant was being treated for headaches by neurology and was scheduled for surgery on March 20, 2014. Dr. Kalim further advised that appellant was not able to perform full duty because working at the computer for long periods of time caused headaches.

The record indicates that appellant worked part time from May 7, 2014 until her surgery on May 20, 2014 in accordance with Dr. Kalim's restrictions.

In a July 24, 2017 development letter, OWCP requested that appellant provide additional evidence, including a detailed factual statement and a report from her attending physician addressing the causal relationship between any diagnosed condition(s) and the claimed March 27, 2014 work incident. It afforded her 30 days to respond.

In response, appellant submitted two narrative statements dated August 19, 2017 reiterating that she fell off a stepladder at work, but that she did not recall how she fell. She did remember her coworker standing over her trying to untangle the ladder that was between her legs after the incident.

By decision dated August 25, 2017, OWCP denied appellant's claim for a March 27, 2014 work injury. It found that she had a brain tumor and her fall was due to an idiopathic incident, which was considered to be a personal nonoccupational pathology without intervention or contribution by a factor of employment and, therefore, the injury was not considered compensable.

Appellant subsequently submitted an April 22, 2014 report from Dr. Jason Madey, a Board-certified neurologist, who indicated that she presented for persistent headaches after a fall on March 27, 2014. Dr. Madey stated that she was on a stepladder at work when her coworkers heard her crash and found her lying on the ground. Appellant related that she did not remember the fall and endorsed waking up on the ground as her coworkers were helping her to her feet. She was confused after the incident and her coworkers reported that she was saying strange things, including asking if there would be cats at the hospital, which she does not remember herself saying. A computerized tomography scan displayed no evidence of fracture or intracranial bleeding, but it did reveal a calcified right frontotemporal mass. A follow-up MRI scan a week later showed findings consistent with a meningioma. Dr. Madey asserted that since the incident appellant had been experiencing daily headaches and indicated that light and sound worsened the headaches. Appellant had no personal or family history of migraines and had never experienced similar headaches previously.

Appellant also submitted a series of reports that indicated that a visit was completed in the Neurology Department at a medical facility, but contained no signature.

In a report signed on February 10, 2015, Dr. James Huang, a Board-certified family practitioner, diagnosed chronic pain syndrome, neuralgia/neuritis, and headache/cephalgia.

In a report signed on December 12, 2016, Dr. Vipul Mangal, a Board-certified anesthesiologist and pain medicine specialist, diagnosed chronic pain syndrome, cervicalgia, occipital neuralgia, low back pain, radiculopathy, lumbar region, fibromyalgia, neuralgia and neuritis, and headache.

On September 8, 2017 appellant, through counsel, requested an oral hearing before a representative of OWCP's Branch of Hearings and Review.

An oral hearing was held before an OWCP hearing representative on January 30, 2018. During the hearing, appellant testified that she was unaware that she had a brain tumor at the time of injury. The hearing representative held the case record open for 30 days for the submission of additional evidence.

In response, appellant submitted a neuropsychological evaluation report dated May 14, 2014 from Dr. Jennifer Lundmark, a clinical neuropsychologist, who diagnosed right frontal meningioma, resection scheduled for May 20, 2014, obstructive sleep apnea, Hashimoto's thyroiditis, and irritable bowel syndrome. Dr. Lundmark indicated that appellant had no recall of her fall from a step stool at work when she fell and hit her head and denied a loss of consciousness (LOC), but described an alteration of consciousness following the fall, including difficulty thinking clearly.

By decision dated April 13, 2018, OWCP's hearing representative affirmed the August 25, 2017 decision, as modified. She found that the evidence of record was sufficient to establish that

appellant had an unexplained fall on March 27, 2014 that occurred in the performance of duty. However, the claim remained denied because the medical evidence of record was insufficient to establish a medical condition causally related to the accepted employment incident.

In a letter received by OWCP on December 20, 2018 appellant requested reconsideration.

In support of her request for reconsideration, appellant submitted a May 5, 2014 report from Dr. Patrick Cooper, a Board-certified neurosurgeon, who diagnosed "fainting (syncope)" and meningioma. Dr. Cooper indicated that appellant had a LOC of unknown etiology and fell off a ladder at work. He opined that appellant's right frontal meningioma was not responsible for her fall or her headaches.

Appellant further submitted a September 25, 2014 report from Jessica L. Biagas, a physician assistant, who indicated that appellant's symptoms began in April 2014 after a fall off a ladder/stool at her job when she struck the left side of her head (occipital region).

By decision dated January 24, 2019, OWCP denied modification of its prior decision.

LEGAL PRECEDENT

An employee seeking benefits under FECA[2] 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.[3] These are the essential elements of every compensation claim regardless of whether the claim is predicated on a traumatic injury or an occupational disease.[4]

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 or she actually experienced the employment incident at the time, place, and in the manner alleged.[5] Second, the employee must submit medical evidence to establish that the employment incident caused a personal injury.[6]

[2] *Id.*

[3] *K.V.*, Docket No. 18-0947 (issued March 4, 2019); *M.E.*, Docket No. 18-1135 (issued January 4, 2019); *Kathryn Haggerty*, 45 ECAB 383, 388 (1994).

[4] *K.V.*, and *M.E., id.*; *Elaine Pendleton*, 40 ECAB 1143 (1989).

[5] *G.C.*, Docket No. 18-0506 (issued August 15, 2018).

[6] *Id.*

Causal relationship is a medical question that requires rationalized medical opinion evidence to resolve the issue.[7] A physician's opinion on whether there is causal relationship between the diagnosed condition and the implicated employment factor(s) must be based on a complete factual and medical background.[8] Additionally, the physician's opinion must be expressed in terms of a reasonable degree of medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and appellant's specific employment factor(s).[9]

In any case where a preexisting condition involving the same part of the body is present and the issue of causal relationship, therefore, involves aggravation, acceleration, or precipitation, the physician must provide a rationalized medical opinion that differentiates between the effects of the work-related injury or disease and the preexisting condition.[10]

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish a head injury causally related to the accepted March 27, 2014 employment incident.

Appellant submitted reports dated April 10 and May 7, 2014 from Dr. Kalim. In her reports, Dr. Kalim discussed examination findings, diagnosed headaches and syncopal episode, and addressed appellant's work restrictions. However, she failed to provide a specific opinion as to whether appellant's conditions and work restrictions were caused or aggravated by the accepted work incident.[11] Thus, the Board finds that Dr. Kalim's reports are of no probative value and are insufficient to establish appellant's claim.

Similarly, the reports of Dr. Madey and Dr. Cooper are insufficient to establish appellant's claim. In his April 22, 2014 report, Dr. Madey described the March 27, 2014 employment incident and asserted that, since the incident, she had been experiencing daily headaches worsened by light and sound. In his May 5, 2014 report, Dr. Cooper described the accepted employment incident and opined that appellant's meningioma was not responsible for her fall or her headaches. Neither Dr. Madey nor Dr. Cooper offered an opinion as to whether the accepted employment incident caused or aggravated her conditions.[12]

[7] *T.H.*, 59 ECAB 388, 393 (2008); *Robert G. Morris*, 48 ECAB 238 (1996).

[8] *M.V.*, Docket No. 18-0884 (issued December 28, 2018).

[9] *Id.*

[10] Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3e (January 2013). *See R.D.*, Docket No. 18-1551 (issued March 1, 2019).

[11] Medical evidence that does not offer an opinion regarding the cause of an employee's condition or disability is of no probative value on the issue of causal relationship. *See L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

[12] *Id.*

Although Drs. Wexler, Huang, Mangal, and Lundmark provided medical diagnoses, they did not explain how the diagnosed conditions were causally related to the accepted employment incident. As these physicians failed to address causal relationship, their reports are insufficient to meet appellant's burden of proof.[13] This evidence is, therefore, insufficient to establish the claim.

Appellant further submitted a September 25, 2014 report from a physician assistant. The Board has held that medical reports signed solely by a physician assistant are of no probative value as such health care providers are not considered physicians as defined under FECA and are, therefore, not competent to provide medical opinions.[14] Consequently, this evidence is also insufficient to establish appellant's claim.

As appellant has not submitted rationalized medical evidence sufficient to establish an injury causally related to the accepted employment incident, the Board finds that 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 head injury causally related to the accepted March 27, 2014 employment incident.

[13] *T.R.*, Docket No. 18-1272 (issued February 15, 2019).

[14] *See 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). *E.T.*, Docket No. 17-0265 (issued May 25, 2018) (physician assistants are not considered physicians under FECA).

ORDER

IT IS HEREBY ORDERED THAT the January 24, 2019 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: November 20, 2019
Washington, DC

Patricia H. Fitzgerald, Deputy Chief Judge
Employees' Compensation Appeals Board

Janice B. Askin, Judge
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board