United States Department of Labor
Employees' Compensation Appeals Board

T.J., Appellant	)	
and	)	**Docket No. 19-0461**
	)	**Issued: August 11, 2020**
DEPARTMENT OF VETERANS AFFAIRS, COLUMBIA VETERANS ADMINISTRATION HEALTHCARE SYSTEM, Columbia, SC, Employer	)	

Appearances:
Alan J. Shapiro, Esq., for the appellant[1]
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Chief Judge
CHRISTOPHER J. GODFREY, Deputy Chief Judge
PATRICIA H. FITZGERALD, Alternate Judge

JURISDICTION

On December 27, 2018 appellant, through counsel, filed a timely appeal from an October 29, 2018 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act[2] (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

[1] In all cases in which a representative has been authorized in a matter before the Board, no claim for a fee for legal or other service performed on appeal before the Board is valid unless approved by the Board. 20 C.F.R. § 501.9(e). No contract for a stipulated fee or on a contingent fee basis will be approved by the Board. *Id.* An attorney or representative's collection of a fee without the Board's approval may constitute a misdemeanor, subject to fine or imprisonment for up to one year or both. *Id*.; *see also* 18 U.S.C. § 292. Demands for payment of fees to a representative, prior to approval by the Board, may be reported to appropriate authorities for investigation.

[2] 5 U.S.C. § 8101 *et seq.*

ISSUE

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

FACTUAL HISTORY

On July 19, 2017 appellant, then a 44-year-old medical clerk, filed a traumatic injury claim (Form CA-1) alleging that she injured both hands, knees, and hips, her ribs, and her left chest, breast, arm, and shoulder, when she fell on July 7, 2017 while in the performance of duty. She stopped work that day. In a statement dated July 11, 2017, appellant noted that on July 7, 2017 her shoe caught on something that caused her to fall forward onto her left side. She noted that she injured both hands, that both knees were swollen such that she could not walk, and that her entire left side hurt. Appellant received emergency medical treatment that same date.

On July 11, 2017 the employing establishment executed an authorization for examination and/or treatment (Form CA-16) for appellant to obtain treatment from Dr. Virginia Samuel, a chiropractor.

In a July 10, 2017 report, Dr. Samuel noted that appellant had been under her care and could return to work on or about July 24, 2017.

In a treatment note dated July 18, 2017, Dr. Green B. Neal, who specializes in cardiology, noted a fall at work, that appellant had been on six weeks leave for job stress, and that she had a nine-year history of diabetes. He noted that on July 7, 2017 she stumbled and fell in a hallway at work, injuring her neck, occiput, upper and lower back, and both wrists. Appellant explained that she fell on outstretched arms and wrists, with the left wrist catching the brunt of the fall, and was taken to the employing establishment emergency department. Dr. Neal noted complaints of bilateral forearm, shoulder, hip, thigh, knee, and ankle pain, and indicated that she was having trouble ambulating and used a cane. On examination he observed lordosis, crepitus, and severe muscle spasms of the neck, over the long muscles of the back, and medial scapular areas, with muscle knotting, tenderness to palpation, decreased neck and back range of motion, and limited stability of the ribs, pelvis, head, and neck. Dr. Neal diagnosed type 2 diabetes mellitus with hyperglycemia; chest pain; primary hypertension; pain in the low back, hand, hip, knee, shoulder, and wrist; torticollis; anxiety disorder; post-traumatic stress disorder; cervicalgia; cervical radiculopathy; mixed hyperlipidemia; morbid obesity; muscle spasm; phlebitis and thrombophlebitis; and post-traumatic osteoarthritis. In an attached note, he indicated that appellant could not work.

On a medical excuse slip dated August 1, 2017, Dr. Neal advised that appellant should not work from August 1 to 19, 2017. In a work excuse note dated August 19, 2017, he indicated that she was under his care from August 1 to October 16, 2017.

In an August 19, 2017 treatment note, Dr. Neal again recounted appellant's history of falling at work and indicated that her pain had improved after chiropractic treatment and that she had abnormal blood work. Dr. Neal described examination findings, again noting muscle spasm and range of motion deficits in the neck, back, and all extremities with joint enlargement. He

reiterated his diagnoses and referred appellant for nephrology, rheumatology, and endocrinology consultations.

An August 30, 2017 magnetic resonance imaging (MRI) scan of the lumbar spine demonstrated nonspecific soft tissue edema. A thoracic spine MRI scan that same date demonstrated a large hepatic lesion and suspected mediastinal adenopathy. A September 7, 2017 left knee MRI scan demonstrated mild prepatellar bursitis. A right knee MRI scan that same date demonstrated prepatellar bursitis without an acute osseous injury or significant internal derangement.

On a medical excuse slip dated October 16, 2017, Dr. Neal indicated that appellant should be excused from work from July 7 to October 24, 2017. On a similar report dated October 24, 2017, he noted that she had severe musculoskeletal injuries with pain on ambulation and locomotion and was a fall risk. Dr. Neal advised that appellant was unable to work from July 7, 2017 to February 26, 2018.

In a development letter dated November 28, 2017, OWCP advised appellant that, when her claim was first received, it appeared to be a minor injury that resulted in minimal or no lost time for work, and therefore payment of a limited amount of medical expenses was administratively approved without formal consideration of the merits of her claim.[3] It had now reopened her claim for consideration of the merits. OWCP advised appellant of the deficiencies of her claim, requested additional factual and medical evidence, and provided a questionnaire for her completion. It afforded her 30 days to submit the requested information.

By decision dated January 2, 2018, OWCP denied appellant's claim finding the medical evidence of record was insufficient to establish a medical diagnosis in connection with the accepted July 7, 2017 employment incident.

On January 9, 2018 appellant, through counsel, requested a telephonic hearing with OWCP's Branch of Hearings and Review. During the hearing, held on June 5, 2018 appellant described the July 7, 2017 fall. She also testified that she had been involved in a motor vehicle accident (MVA) in October 2017 when her car was rear-ended, and that Dr. Neal advised her not to return to work. The hearing representative held the record open for 30 days for the submission of additional evidence.

OWCP thereafter received medical evidence previously of record. This included treatment notes from Dr. Neal dated July 18 and August 19, 2017, the previously submitted MRI scan reports, and results of blood work dated July 25, 2017. X-rays of the chest, skull, knees, tibia, and fibula dated October 31, 2017 had normal findings, and October 31, 2017 bilateral foot/ankle x-rays demonstrated bilateral ankle Achilles enthesophytes and hallux valgus of both feet. In treatment notes dated August 1, September 8, and October 24, 2017, Dr. Neal reiterated the history of the July 7, 2017 fall. He described his review of systems, examination findings, and advised that appellant had trouble ambulating and walked with a cane. Dr. Neal diagnosed: hip, knee, wrist, and shoulder pain; post-traumatic osteoarthritis; abnormal immunological findings in serum;

[3] On November 24, 2017 appellant filed a wage-loss compensation claim (Form CA-7) requesting reimbursement for leave without pay for August 31 to November 9, 2017.

muscle spasms; hyperlipidemia; type 2 diabetes; torticollis; anxiety disorder; post-traumatic stress disorder; cervicalgia; cervical radiculopathy; morbid obesity; thrombophlebitis; and phlebitis.

In an October 25, 2017 treatment note, Dr. Neal indicated that appellant had been in a nonemployment-related MVA the previous day when her car was rear-ended and she was taken by ambulance to an emergency department for a low back injury. He opined that the MVA aggravated the injuries from the July 7, 2017 fall at work, noting that she still had severe pains on ambulating and locomotion.

Dr. Neal noted, in a December 5, 2017 treatment note, appellant's complaints of continued pain in her knees, hips, and left shoulder. He again indicated that the October 24, 2017 MVA aggravated the injuries due to the July 7, 2017 fall. Dr. Neal continued to advise that appellant had abnormal blood work, high blood pressure, limited range of motion of the left shoulder and knees, and cervical spine pain with muscle spasms. He opined that her pain was due to the July 7, 2017 fall at work. Dr. Neal also reported a history that in the past appellant injured her pelvis while raking in her yard for which Dr. Samuel provided treatment.

In an emergency department report dated May 16, 2018, Dr. Steven Cruea, Board-certified in emergency medicine, noted that appellant was sent from a physical therapy appointment to be evaluated for high blood pressure and complaints of shoulder pain. He indicated that she told him that she had a fall at work the previous year and had persistent pain since. Dr. Cruea described examination findings of tenderness to palpation of the coccyx and bilateral knees and ankles with normal range of motion. He reviewed a computerized radiology (CR) study of the sacrum and coccyx dated May 16, 2018 that demonstrated a mild coccygeal deformity, which appeared chronic, with no acute sacrococcygeal fracture or dislocation. A lumbar spine CR study of same date demonstrated no acute bony process. Dr. Cruea noted that he discussed all studies with appellant and informed her of the coccygeal deformity that was likely secondary to an old fracture from her fall the previous year, and this contributed to her chronic tailbone pain. He advised appellant to follow-up with her rheumatologist and primary care physician, and discharged her to return home. Discharge diagnoses were acute exacerbation of chronic pain syndrome, polyarthralgia, coccydynia, hypertension, renal insufficiency, and anemia.

By decision dated July 19, 2018, OWCP's hearing representative modified the prior decision finding that appellant had established valid medical diagnoses including traumatic osteoarthritis and cervical radiculopathy in connection with the employment incident. She denied the claim, however, finding that the medical evidence of record was insufficient to establish causal relationship between the diagnosed condition and the accepted July 7, 2017 employment injury.

On September 4, 2018 appellant requested reconsideration of the July 19, 2018 decision.

By decision dated October 29, 2018, OWCP reviewed the merits of the claim, but denied modification.

LEGAL PRECEDENT

An employee seeking benefits under FECA[4] 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,[5] 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.[6] 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.[7]

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it must first be determined whether fact of injury has been established. 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. Second, the employee must submit sufficient evidence to establish that the employment incident caused a personal injury.[8]

Causal relationship is a medical issue and the medical evidence required to establish causal relationship is rationalized medical opinion evidence.[9] Rationalized medical opinion evidence is medical evidence that includes a physician's rationalized opinion on whether there is a causal relationship between the employee's diagnosed condition and compensable employment factors.[10] 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.[11]

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish a traumatic injury causally related to the accepted July 7, 2017 employment incident.

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[4] *Supra* note 2.

[5] *S.S.*, Docket No. 19-1815 (issued June 26, 2020); *S.B.*, Docket No. 17-1779 (issued February 7, 2018); *Joe D. Cameron*, 41 ECAB 153 (1989).

[6] *M.H.*, Docket No. 19-0930 (issued June 17, 2020); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

[7] *S.A.*, Docket No. 19-1221 (issued June 9, 2020); *L.M.*, Docket No. 13-1402 (issued February 7, 2014); *Delores C. Ellyett*, 41 ECAB 992 (1990).

[8] *F.H.*, Docket No. 18-0869 (issued January 29, 2020).

[9] *T.H.*, Docket No. 19-0599 (issued January 28, 2020).

[10] *K.C.*, Docket No. 18-0529 (issued January 21, 2020).

[11] *D.J.*, Docket No. 19-1301 (issued January 29, 2020).

In his initial report dated July 18, 2017, Dr. Neal described the employment injury when appellant stumbled and fell at work on July 7, 2017. In that report he noted complaints of bilateral forearm, shoulder, hip, thigh, knee, and ankle pain, and indicated that she was having trouble ambulating and used a cane. Dr. Neal provided examination findings and diagnosed: type 2 diabetes mellitus with hyperglycemia; chest pain; primary hypertension; pain in the low back, hand, hip, knee, shoulder, and wrist; torticollis; anxiety disorder; post-traumatic stress disorder; cervicalgia; cervical radiculopathy; mixed hyperlipidemia; morbid obesity; muscle spasm; phlebitis and thrombophlebitis; and post-traumatic osteoarthritis. He did not, however, provide a cause of his diagnosed conditions. The Board has held that medical evidence that does not offer an opinion regarding the cause of an employee's condition is of no probative value on the issue of causal relationship.[12] Likewise, in his treatment notes dated August 1 and 19, September 8, and October 24, 2017, Dr. Neal replicated this history of injury and enumerated numerous diagnoses. However, he again did not provide an opinion as to causal relationship and the reports are insufficient to establish appellant's claim.[13]

On October 25, 2017 Dr. Neal noted that appellant had been in a nonemployment-related MVA the previous day. He opined that the MVA aggravated the injuries from the July 7, 2017 fall at work, noting that she still had severe pains on ambulating and locomotion. Dr. Neal repeated this opinion in his December 5, 2017 treatment note. He did not, however, explain with sufficient rationale how the July 7, 2017 incident caused a diagnosed condition. The Board has held that a medical opinion is of limited value if it is conclusory in nature.[14] A medical opinion must explain how the implicated employment factors physiologically caused, contributed to, or aggravated the specific diagnosed conditions.[15] Thus, contrary to counsel's argument on appeal that Dr. Neal provided clear and unambiguous causal relationship, without this explanation he did not provide a sufficient basis for his opinion. The report is thus insufficient to meet appellant's burden of proof.

Dr. Cruea's May 16, 2018 report is also of insufficient rationale. He noted that appellant told him that she had a fall at work the previous year with persistent pain ever since. Dr. Cruea provided examination findings, reviewed diagnostic studies, and diagnosed acute exacerbation of chronic pain syndrome, polyarthralgia, coccydynia, hypertension, renal insufficient, and anemia. He reported that a May 16, 2018 CR study of the sacrum and coccyx demonstrated a mild coccygeal deformity which appeared chronic and opined that this was likely secondary to an old fracture from her fall the previous year, and that this contributed to her chronic tailbone pain. Dr. Neal, however, had reported a history that appellant had injured her pelvis while working in her yard. Moreover, appellant reported that on July 7, 2017 she fell forward, hitting her left side. As noted, in order to be sufficient to establish causal relationship, 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

[12] *See R.T.*, Docket No. 19-1346 (issued December 4, 2019); *L.B.*, Docket No 18-0533 (issued August 27, 2018); *Willie M. Miller*, 53 ECAB 697 (2002).

[13] *Id*.

[14] *C.M.*, Docket No. 19-0360 (issued February 25, 2020); *C.D.*, Docket No. 17-0292 (issued June 19, 2008); *Mary A. Ceglia*, 55 ECAB 626 (2004).

[15] *R.S.*, Docket No. 19-1774 (issued April 3, 2020; *K.G.*, Docket No. 18-1598 (issued January 7, 2020).

the relationship between the diagnosed condition and the specific employment factors identified by the employee.[16] Dr. Cruea's report also lacks the necessary medical rationale explaining how or why the accepted incident resulted in his diagnosed conditions.[17] Accordingly, his report is also insufficient to establish appellant's claim.

Appellant also submitted the results of numerous diagnostic studies, including MRI scans of her lumbar and thoracic spine taken on August 30, 2017 and of her bilateral knees taken on September 7, 2017. The Board has held that reports of diagnostic tests, standing alone, lack probative value on the issue of causal relationship as they do not address whether the employment factors caused the diagnosed condition.[18]

As none of the medical evidence appellant submitted constitutes rationalized medical evidence sufficient to establish causal relationship between the July 7, 2017 work incident and her diagnosed conditions, she has not met her burden of proof.[19]

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 traumatic injury causally related to the accepted July 7, 2017 employment incident.[20]

[16] *D.J.*, *supra* note 11.

[17] *L.S.*, Docket No. 18-0518 (issued February 19, 2020).

[18] *See R.S.*, *supra* note 15; *C.F.*, Docket No. 18-1156 (issued January 22, 2019); *T.M.*, Docket No. 08-0975 (issued February 6, 2009).

[19] *R.G.*, Docket No. 18-0792 (issued March 11, 2020).

[20] The Board notes that the case record contains an authorization for examination and/or treatment (Form CA-16) dated July 19, 2019. A properly completed Form CA-16 form authorization may constitute a contract for payment of medical expenses to a medical facility or physician, when properly executed. The form creates a contractual obligation, which does not involve the employee directly, to pay for the cost of the examination or treatment regardless of the action taken on the claim. The period for which treatment is authorized by a Form CA-16 is limited to 60 days from the date of issuance, unless terminated earlier by OWCP. 20 C.F.R. § 10.300(c); *P.R.*, Docket No. 18-0737 (issued November 2, 2018); *N.M.*, Docket No. 17-1655 (issued January 24, 2018); *Tracy P. Spillane*, 54 ECAB 608 (2003).

ORDER

IT IS HEREBY ORDERED THAT the October 29, 2018 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: August 11, 2020
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

Christopher J. Godfrey, Deputy Chief Judge
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Alternate Judge
Employees' Compensation Appeals Board