

ISSUE

The issue is whether appellant has met her burden of proof to establish lumbar and/or pelvic conditions causally related to the accepted December 21, 2014 employment incident.

FACTUAL HISTORY

This case has previously been before the Board.³ The facts and circumstances as set forth in the Board's prior decision are incorporated herein by reference. The relevant facts are as follows.

On December 21, 2014 appellant, then a 41-year-old transportation security officer, filed a traumatic injury claim (Form CA-1) alleging that on that date she injured her left hand, hip, and back when her chair broke, causing her to fall.

By decision dated May 8, 2015, OWCP denied appellant's claim, finding that she had not established an injury causally related to the accepted December 21, 2014 employment incident.

On June 8, 2015 appellant requested reconsideration of OWCP's May 8, 2015 decision. With her request, she submitted an April 16, 2015 report from Dr. John Yarjanian, Board-certified in physical medicine and rehabilitation. Dr. Yarjanian noted that appellant related pain in her left gluteal region, left lower back, and left hip to the incident of December 21, 2014. He related that, while physical examination suggested pelvic obliquity and a restricted left sacroiliac joint, in addition to, extensive myofascial restriction in the left lumbar spine, imaging had failed to reveal signs of a fracture or disc herniation in relation to her symptoms. Dr. Yarjanian concluded that, based on his clinical impression and physical examination findings, appellant's subjective complaints of pain were legitimate, and substantiated by the mechanism of her fall.

By letter dated May 22, 2015, Dr. Yarjanian described that on December 21, 2014 appellant's stool gave way while she was working and she fell to the ground striking her left gluteal region, left sacral region, and left low back onto a hard cement surface. He noted that she instantaneously developed severe pain in this respective area. Dr. Yarjanian opined that appellant's symptoms were causally related to this fall. As a result of the trauma sustained to her sacrum and lumbar spine, appellant's left sacroiliac and left lower lumbar facet joints sustained trauma, and mechanical dysfunction. The mechanism of her fall was in accordance with her symptoms and physical examination findings.

By decision dated August 24, 2015, OWCP reviewed the merits of appellant's claim, but denied modification of its May 8, 2015 decision.

On December 14, 2015 appellant, through counsel, requested reconsideration of OWCP's August 24, 2015 decision. Also submitted was a letter dated December 2, 2015 from Dr. Yarjanian explaining that, when she fell, she struck her left buttock and pelvis against a hard concrete floor, causing upward force on the pelvis, and this lead to a dysfunction of the left sacroiliac joint. He noted that the sacroiliac joint had been hypomobile and restricted since this

³ Docket No. 17-0172 (issued May 16, 2017).

fall. Dr. Yarjanian explained that, as a result of the fall, a pelvic obliquity occurred, subsequently causing compensatory curvature of her lumbar spine. He stated that this had led to regional muscle strain and localized pain at the left lower lumbar facet joints. Dr. Yarjanian noted that physical examination findings had substantiated appellant's pain complaints, and that she had evidence of restricted motion at the left sacroiliac joint, with displacement of her left innominate (iliac crest) in a superior position. He stated that her lower lumbar pain worsened on extension, consistent with pain emanating from the lower lumbar facet joints as a result of the fall.

By decision dated March 9, 2016, OWCP reviewed the merits of appellant's claim, but denied modification of its prior decision of August 24, 2015.

On August 15, 2016 appellant, through counsel, requested reconsideration of OWCP's March 9, 2016 decision. With the request, appellant submitted a June 21, 2016 letter from Dr. Yarjanian in which he provided ICD-9 and ICD-10 codes for the diagnoses of sacroiliac dysfunction, pelvic obliquity, lumbar facet arthropathy, and myofascial pain.

By decision dated September 7, 2016, OWCP denied appellant's request for reconsideration.

On November 3, 2016 appellant, through counsel, timely appealed to the Board.

By decision dated May 16, 2017, the Board vacated the September 7, 2016 nonmerit decision and remanded the case to OWCP for further proceedings, to be followed by an appropriate merit decision. The Board found that OWCP had improperly denied appellant's request for reconsideration, as Dr. Yarjanian's June 21, 2016 letter qualified as pertinent new and relevant evidence sufficient to warrant a merit review.

On remand, by decision dated September 5, 2017, OWCP reviewed the merits of appellant's claim, but denied modification of its March 9, 2016 decision. It found that Dr. Yarjanian's opinion concerning her diagnosed conditions was equivocal, as he indicated in his April 16, 2015 report that examinations were "suggestive" of pelvic obliquity and dysfunction of the sacroiliac joint. OWCP found that, while he had provided diagnoses of lumbar facet arthropathy, lumbar facet spondylosis at L4-5 and L5-S1, and L2-3 disc degeneration, he had failed to provide a firm and rationalized opinion, based on a complete and accurate factual and medical background, as to whether and how the December 21, 2014 incident caused or contributed to these conditions.

LEGAL PRECEDENT

An employee seeking benefits under FECA⁴ 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 of FECA, 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

⁴ *Supra* note 2.

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

To determine if 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 that must be considered in conjunction with one another. The first component is whether the employee actually experienced the employment incident that allegedly occurred.⁷ The second component is whether the employment incident caused a personal injury.⁸

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

ANALYSIS

The Board finds that this case is not in posture for decision.

In support of her claim, appellant provided reports from Dr. Yarjanian dated April 16, May 22, and December 2, 2015. In an April 16, 2015 report from Dr. Yarjanian, he noted that she related pain in her left gluteal region, left lower back, and left hip to the incident of December 21, 2014. He concluded that appellant's subjective complaints of pain were legitimate and substantiated by the mechanism of her fall. By letter dated May 22, 2015, Dr. Yarjanian described that on December 21, 2014 her stool gave way while she was working and she fell to the ground striking her left gluteal region, left sacral region, and left low back to a hard cement surface. He opined that appellant's symptoms were causally related to this fall. As a result of the trauma sustained to her sacrum and lumbar spine, appellant's left sacroiliac and left lower lumbar facet joints sustained trauma, and mechanical dysfunction. The mechanism of her fall was in accordance with her symptoms and physical examination findings. By letter dated December 2, 2015, Dr. Yarjanian explained that, when appellant fell, she struck her left buttock and pelvis against a hard concrete floor, causing upward force on the pelvis, and this lead to a dysfunction of the left sacroiliac joint. He noted that the sacroiliac joint had been hypomobile and restricted since this fall. Dr. Yarjanian explained that, as a result of the fall, a pelvic obliquity occurred, subsequently causing compensatory curvature of appellant's lumbar spine. He stated that this had

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 *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁸ *M.H.*, Docket No. 18-1737 (issued March 13, 2019); *John J. Carlone*, 41 ECAB 354 (1989).

⁹ *S.S.*, Docket No. 18-1488 (issued March 11, 2019).

led to regional muscle strain and localized pain at the left lower lumbar facet joints. Dr. Yarjanian noted that physical examination findings had substantiated appellant's pain complaints and that she had evidence of restricted motion at the left sacroiliac joint, with displacement of her left innominate (iliac crest) in a superior position. He stated that her lower lumbar pain worsened on extension, consistent with pain emanating from the lower lumbar facet joints as a result of the fall.

The Board finds that, although Dr. Yarjanian's reports are insufficient to fully discharge appellant's burden of proof that her diagnosed conditions were caused or aggravated by the December 21, 2014 work injury, his reports constitute substantial, uncontradicted evidence in support of her claim, and provide sufficient rationale to require further development of the case record by OWCP.¹⁰ Dr. Yarjanian provided a detailed history of injury, referenced physical examination results demonstrating injury, expressed his opinion on causal relationship within a reasonable degree of medical certainty, and provided a detailed pathophysiologic explanation as to the mechanism by which her fall on December 21, 2014 resulted in sacroiliac dysfunction, pelvic obliquity, and lumbar facet arthropathy.

It is well established that proceedings under FECA are not adversarial in nature, nor is OWCP a disinterested arbiter. While the claimant has the burden of proof to establish entitlement to compensation, OWCP shares the responsibility in the development of the evidence to see that justice is done.¹¹

On remand OWCP should refer appellant, the case record, and a statement of accepted facts to an appropriate specialist for an evaluation and a rationalized medical opinion on whether the accepted employment incident of December 21, 2014 caused, contributed to, precipitated, or aggravated any of her diagnosed conditions. After such further development of the case record as OWCP deems necessary, it shall issue a *de novo* decision.

CONCLUSION

The Board finds that this case is not in posture for decision.

¹⁰ *K.P.*, Docket No. 18-0041 (issued May 24, 2019); *M.K.*, Docket No. 17-1140 (issued October 18, 2017); *G.C.*, Docket No. 16-0666 (issued March 17, 2017); *John J. Carlone*, *supra* note 8; *Horace Langhorne*, 29 ECAB 280 (1978).

¹¹ *K.P.*, *id.* *D.G.*, Docket No. 15-0702 (issued August 27, 2015); *Donald R. Gervasi*, 57 ECAB 281, 286 (2005); *William J. Cantrell*, 34 ECAB 1233, 1237 (1983).

ORDER

IT IS HEREBY ORDERED THAT the September 5, 2017 decision of the Office of Workers' Compensation Programs is set aside, and the case is remanded for further action consistent with this opinion of the Board.

Issued: January 6, 2020
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