



## ISSUE

The issue is whether appellant has met his burden of proof to establish a medical condition causally related to the accepted March 1, 2019 employment incident.

## FACTUAL HISTORY

On March 4, 2019 appellant, then a 40-year-old city carrier assistant, filed a traumatic injury claim (Form CA-1) alleging that on March 1, 2019 he sustained an injury to his right hip/buttocks when he slipped and fell on ice while in the performance of duty. On the reverse side of the claim form, appellant's supervisor checked a box marked "Yes" acknowledging that appellant had been injured in the performance of duty. Appellant did not stop work.

In a March 18, 2019 development letter, OWCP informed appellant of the deficiencies in his claim. It advised him of the factual and medical evidence necessary to establish his claim and provided a factual questionnaire for completion. OWCP afforded appellant 30 days to respond.

Appellant submitted physical therapy notes dated March 1 and 5, 2019 from Gregrey Barta, a physical therapist, who noted diagnoses of right hip and knee strains. Mr. Barta described the mechanism of injury as appellant walking over icy concrete while working and sliding forward with his right leg. He reported experiencing a sharp pain to his right hip following this incident.

By decision dated April 22, 2019, OWCP denied appellant's claim. It accepted that the March 1, 2019 employment incident occurred as alleged, however, it found that he had not established a diagnosed medical condition causally related to the accepted employment incident. Thus, OWCP found that the requirements had not been met for establishing an injury as defined by FECA.

## LEGAL PRECEDENT

An employee seeking benefits under FECA<sup>3</sup> has the burden of proof to establish the essential elements of his or her claim, including 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,<sup>4</sup> 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.<sup>5</sup> 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.<sup>6</sup>

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<sup>3</sup> *Supra* note 1.

<sup>4</sup> *F.H.*, Docket No.18-0869 (issued January 29, 2020); *J.P.*, Docket No. 19-0129 (issued April 26, 2019); *Joe D. Cameron*, 41 ECAB 153 (1989).

<sup>5</sup> *L.C.*, Docket No. 19-1301 (issued January 29, 2020); *J.H.*, Docket No. 18-1637 (issued January 29, 2020); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

<sup>6</sup> *P.A.*, Docket No. 18-0559 (issued January 29, 2020); *K.M.*, Docket No. 15-1660 (issued September 16, 2016); *Delores C. Ellyett*, 41 ECAB 992 (1990).

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. Second the component is whether the employment incident caused a personal injury and can be established only by medical evidence.<sup>7</sup>

The medical evidence required to establish a causal relationship between a claimed condition and an employment incident is rationalized medical opinion evidence.<sup>8</sup> 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 specific employment factors identified by the employee.<sup>9</sup>

### ANALYSIS

The Board finds that appellant has not met his burden of proof to establish a medical condition causally related to the accepted March 1, 2019 employment incident.

When appellant filed his Form CA-1, on March 4, 2019, he did not provide medical evidence with respect to his claimed injuries. On March 18, 2019 OWCP advised him of the deficiencies in his claim and afforded him 30 days to submit the requested factual and medical evidence. In response, appellant submitted physical therapy records dated March 1 and 5, 2019, describing the mechanism of injury as appellant sliding on his right leg while walking over icy concrete and subsequently experiencing sharp pain in his right hip.

In his physical therapy notes, Mr. Barta, noted diagnoses of right hip and knee strains following an injury at work. The Board has held that certain medical providers, such as physical therapists, are not considered “physician[s]” as defined under FECA.<sup>10</sup> Consequently, their medical findings and/or opinions are of no probative value and will not suffice for purposes of establishing entitlement to compensation benefits. Accordingly, as Mr. Barta’s notes are of no probative value, the Board finds that appellant has not met his burden of proof to establish a medical condition causally related to the accepted March 1, 2019 employment incident.

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<sup>7</sup> *T.H.*, Docket No. 19-0599 (issued January 28, 2020); *K.L.*, Docket No. 18-1029 (issued January 9, 2019); *John J. Carlone*, 41 ECAB 354 (1989).

<sup>8</sup> *S.S.*, Docket No. 19-0688 (issued January 24, 2020); *A.M.*, Docket No. 18-1748 (issued April 24, 2019); *Robert G. Morris*, 48 ECAB 238 (1996).

<sup>9</sup> *T.L.*, Docket No. 18-0778 (issued January 22, 2020); *Y.S.*, Docket No. 18-0366 (issued January 22, 2020); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

<sup>10</sup> See 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.W.*, Docket No. 16-1729 (issued May 12, 2017) (physical therapists); *David P. Sawchuk*, 57 ECAB 316, 320 n.11 (2006). See also *Charley V.B. Harley*, 2 ECAB 208, 211 (1949) (where the Board held that medical opinion, in general, can only be given by a qualified physician).

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 10.607.15

**CONCLUSION**

The Board finds that appellant has not met his burden of proof to establish a medical condition causally related to the accepted March 1, 2019 employment incident.

**ORDER**

**IT IS HEREBY ORDERED THAT** the April 22, 2019 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: March 23, 2020  
Washington, DC

Christopher J. Godfrey, 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