

ISSUE

The issue is whether appellant has met her burden of proof to establish that the acceptance of her claim should be expanded to include the additional conditions of coccydynia and temporomandibular joint (TMJ) disorder as causally related to the accepted August 19, 2011 employment injury.

FACTUAL HISTORY

On October 5, 2011 appellant, then a 53-year-old temporary full-time lead biological science technician (plant), filed a traumatic injury claim (Form CA-1) alleging that on August 19, 2011 she sustained injuries to her head, neck, left shoulder and elbow, and right little finger when a heavy trap door, which did not have a counter balance weight, fell on her as she was trying to open it while in the performance of duty. She also alleged that she reinjured her shoulder and back on September 21, 2011. OWCP accepted the claim for post-traumatic headache and head contusion. Appellant stopped work on March 10, 2013 and has not returned. OWCP paid her wage-loss compensation on the supplemental rolls commencing March 10, 2013 and on its periodic compensation rolls effective October 20, 2013.

Appellant was first examined by Dr. David Stangland, a family medical specialist, on October 20, 2011. In his report dated October 22, 2011, Dr. Stangland reported that on August 19, 2011 appellant “lifted a trap door at a look out and afterwards, she noticed some twinges of pain in her neck and right calf and intermittent head pressure.” On September 7, 2011 appellant was opening and closing the same trap door when it smashed her right fifth finger, leaving a hematoma under the nail. On September 21, 2011 she felt pain in her left shoulder after attempting to open the same trap door, which was stuck in place due to snow and ice. Two days later, appellant was unable to straighten her left elbow and experienced popping in the shoulder. Dr. Stangland also noted that appellant had recently been tender over her tailbone for unclear reasons. He diagnosed lumber, upper and lower extremity conditions, and coccydynia of unclear etiology.

In a March 12, 2012 letter, Dr. Stangland opined that “two separate incidents” of opening the heavy trap door by a small woman resulted in medical conditions including coccydynia.

In an April 30, 2012 report, Dr. Steve Hufman, a sports medicine specialist, noted appellant’s history of injury as a trapdoor falling onto appellant’s head as she was lowering it into place and forcing her down into the stairs. He diagnosed a number of medical conditions, but did not note any diagnoses related to appellant’s coccyx or TMJ. In follow-up examinations of May 30, June 4, and July 2, 2012, Dr. Hufman diagnosed coccydynia.

In an October 6, 2014 report, Dr. Greg Grillo, a dentist, noted that in 2011, appellant had a traumatic head injury that created a number of chronic complications. He noted that she had reported jaw problems and generalized tooth sensitivity since her injury, but that he had been unable to draw a direct cause and effect relationship between the two. Dr. Grillo diagnosed degeneration of the TMJ and opined that the anatomical shift in her mandible, often seen as a result of degeneration of the TMJ and its associated cartilage and space, occurred secondary to trauma. He indicated that appellant had developed a three-millimeter shift in her jaw alignment and resulting dysfunction since the injury. X-ray pictures of appellant’s jaw alignment pre-2011 and 2014 were provided.

On March 24, 2015 OWCP expanded the acceptance of the claim to include concussion without loss of consciousness; anxiety; and sprain of back, lumbar region.

On November 2, 2015 appellant, through counsel, requested that the acceptance of her claim be expanded to include lumbar radiculopathy/sciatica; C5-6 spondylosis; C4-5 disc protrusion; TMJ disorder; and coccydynia. OWCP subsequently received a December 5, 2014 report, wherein Dr. Miranda M. Raiche, Board-certified in family medicine, diagnosed several conditions including TMJ syndrome, which she related was “probably” related to appellant’s 2011 head injury. In a June 20, 2016 report, Dr. Raiche noted that appellant continued to have jaw pain. She noted a diagnosis of coccyx pain.

In a development letter dated November 4, 2016, OWCP informed appellant that additional medical evidence was needed to expand the acceptance of her claim to include: lumbar radiculopathy/sciatica; TMJ; C5-6 spondylosis; C4-5 disc protrusion; and coccydynia. It advised appellant to submit additional evidence, including a well-rationalized report from her physician explaining how the accepted August 19, 2011 employment injury caused or aggravated the additional claimed medical conditions. OWCP afforded her 30 days to respond.

In response to the development letter, OWCP received Dr. Raiche’s January 31, 2017 notes and a work capacity evaluation (Form OWCP-5c). Dr. Raiche diagnosed several medical conditions which included acquired cross bite and coccyx pain. She opined that both she and Dr. Grillo believed that the acquired cross bite was a result of appellant’s head injury.

By decision dated March 24, 2017, OWCP denied appellant’s request to expand the acceptance of her claim, finding that the evidence submitted was of insufficient probative value to establish that the accepted August 19, 2011 employment injury had caused or aggravated the additional claimed conditions.

On April 10, 2017 appellant requested a telephonic hearing before a hearing representative of OWCP’s Branch of Hearings and Review. The hearing was held on October 3, 2017.

OWCP subsequently received additional evidence. In an August 31, 2017 report, Dr. Raiche indicated the history of injury as a heavy trap door falling and hitting appellant on the head, causing unnatural, sudden and forced hyperflexion of her spine. She opined that the blunt force trauma to appellant’s head caused a shift in appellant’s mandible at the TMJ joints, damaging the cartilage and causing a cross bite, which happened when the lower jaw was shifted sideways. Progress notes and Form OWCP-5c work capacity evaluations were also received.

In a September 26, 2017 letter, Dr. Grillo continued to opine that appellant’s clinical findings of TMJ disorder was consistent with traumatic injury. He explained that chronic degeneration of the joint structure may cause a slow shift which continued to worsen over time, but sudden shifts were unusual outside of traumatic causes. Dr. Grillo noted that the shift was not observed until after examination post-accident in 2014. He further indicated that when he examined appellant on September 20, 2017 the position of her jaw remained where it was following her accident and had not worsened over time as would be expected from a chronic degeneration of the joint.

By decision dated December 13, 2017, an OWCP hearing representative affirmed the March 24, 2017 denial of the claim with regard to the conditions of coccydynia and TMJ disorder as the medical evidence was insufficient to support causal relationship.⁴

On November 27, 2018 appellant, through counsel, requested reconsideration and submitted additional medical evidence.

In a May 11, 2018 letter, Dr. Raiche reiterated her opinions as set forth in her prior report of August 31, 2017. A September 27, 2018 report and Form OWCP-5c from Dr. Raiche were also received. Appellant's history of injury was reported as an 80-pound trap door fell on her crunching her in a sudden hyperflexed fetal position. Dr. Raiche indicated that in addition to cervical conditions and headache, appellant continued to experience dental pain related to traumatic cross bite from the employment injury.

In a November 1, 2018 letter, Dr. Grillo noted appellant's accepted conditions and that he had reviewed her medical records, history, and that he examined her clinically multiple times. He indicated that her TMJ disorder was diagnosed by examination and objective findings of measureable misalignment of the teeth. Dr. Grillo opined that appellant's TMJ disorder was caused by the August 19, 2011 employment injury and not from normal aging. He indicated that prior to appellant being struck on the head with the trap door on August 19, 2011, she had no diagnosis of TMJ or problems with teeth alignment. Dr. Grillo explained that, when she sustained the impact to her head, it caused her teeth to clamp down suddenly and compressed the jaw joints on both sides of her face. The sudden compression of the joints led to a shift in the alignment of the teeth. The impact and altered alignment also resulted in inflammation of the membranes and surrounding tissues associated with the joint. Dr. Grillo indicated that the five-millimeter shift measured in her lower jaw was not there prior to her injury. He opined that this shift was not possible without a structural change in the jaw joint complex, which is normally very stable without systemic arthritic disease. Dr. Grillo also noted that appellant had not suffered any intervening injuries to her jaw.

By decision dated January 9, 2019, OWCP denied modification of its December 13, 2017 decision.

LEGAL PRECEDENT

When an employee claims that a condition not accepted or approved by OWCP was due to an employment injury, he or she bears the burden of proof to establish that the condition is causally related to the employment injury.⁵

To establish causal relationship between a condition and the employment event or factors, the employee must submit rationalized medical opinion evidence based on a complete factual and

⁴ OWCP's hearing representative vacated March 24, 2017 decision in part and remanded the case for further development with regard to appellant's request to expand the claim to include lumbar radiculopathy/sciatica, C5-6 spondylosis, and C4-5 disc protrusion, as such the acceptance of those conditions are in an interlocutory status and are not presently before the Board in this appeal. *See* 20 C.F.R. § 501.2(c)(2).

⁵ *See S.L.*, Docket No. 19-0603 (issued January 28, 2020); *T.E.*, Docket No. 18-1595 (issued March 13, 2019); *T.F.*, Docket No. 17-0645 (issued August 15, 2018); *Jaja K. Asaramo*, 55 ECAB 200 (2004).

medical background, supporting such a causal relationship.⁶ The opinion of the physician must be based on a complete factual and medical background of the claimant, 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 claimant.⁷

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish that the acceptance of her claim should be expanded to accept the additional condition of coccydynia as causally related to the accepted August 19, 2011 employment injury.

With regard to appellant's coccydynia claim, Dr. Stangland, in his October 22, 2011 report, provided an accurate history of injury and noted that appellant recently had tenderness over her tailbone for unclear reasons. He diagnosed coccydynia with an unclear etiology. While Dr. Stangland subsequently provided a vague affirmative opinion, citing two separate incidents, supporting causal relationship in his March 12, 2012 letter, he did not offer a rationalized medical explanation to support his opinion. A mere conclusion regarding causation without supporting medical rationale is insufficient to meet appellant's burden of proof.⁸ Further, Dr. Stangland provided no rationale explaining how, physiologically, the specific movements involved in the accepted employment incident caused or contributed to the coccydynia. Thus, the Board finds that his reports are insufficient to meet appellant's burden of proof.⁹

While Dr. Huffman also diagnosed coccydynia in multiple reports from May 30 to July 2, 2012, he failed to provide an opinion as to whether the accepted employment injury caused or aggravated her condition.¹⁰ Therefore, his reports are insufficient to establish appellant's claim.

Dr. Raiche also diagnosed coccydynia in her June 20, 2016 and January 31 2017 reports, she did not offer an opinion as to the cause of this condition. Medical evidence which does not offer an opinion regarding the cause of an employee's condition is of no probative value on the issue of causal relationship.¹¹ The medical evidence of record is therefore insufficient to establish that appellant's coccydynia condition was causally related to the accepted employment injury.

The Board further finds that the case is not in posture for decision with regard to whether her claim should be expanded to include the additional condition of TMJ disorder.

⁶ See *S.L., id.*; *S.A.*, Docket No. 18-0399 (issued October 16, 2018).

⁷ See *M.M.*, Docket No. 19-0061 (issued November 21, 2019); *P.M.*, Docket No. 18-0287 (issued October 11, 2018).

⁸ See *L.G.*, Docket No. 19-0142 (issued August 8, 2019).

⁹ *M.E.*, Docket No. 18-0940 (issued June 11, 2019).

¹⁰ 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).

¹¹ *A.P.*, Docket No. 18-1690 (issued December 12, 2019); *J.H.*, Docket No. 19-0383 (issued October 1, 2019); *L.B., id.*; *D.K.*, *supra* note 10.

In his November 1, 2018 letter, Dr. Grillo related that prior to appellant being struck on the head with the trap door on August 19, 2011 she had no diagnosis of TMJ or problems with teeth alignment. He opined that appellant's TMJ was not due to the aging process and he explained how, physiologically, the accepted employment incident could have caused or contributed to a shift in the alignment of the teeth and TMJ. Dr. Grillo explained with specificity that when appellant sustained the impact to her head, it caused her teeth to clamp down suddenly and compressed the jaw joints on both sides of her face. The sudden compression of the joints led to a shift in the alignment of the teeth. The impact and altered alignment also resulted in inflammation of the membranes and surrounding tissues associated with the joint. Dr. Grillo opined that this shift was not possible without a structural change in the jaw joint complex, which is normally very stable without systemic arthritic disease. The Board finds that this report from Dr. Grillo, is sufficient to require further development of the medical evidence.¹² Dr. Grillo is a dentist who is qualified in his field of medicine to render rationalized opinions on the issue of causal relationship and he provided a comprehensive understanding of the medical record and case history. His report provides a pathophysiological explanation as to how the accepted employment incident could have caused or contributed to a shift in the alignment of appellant's teeth and TMJ.¹³ The Board also notes that Dr. Raiche's reports provide further support for Dr. Grillo's conclusion that appellant's TMI disorder was causally related to her accepted employment incident. In her January 31, and August 31, 2017 and September 27, 2018 reports, Dr. Raiche explained that appellant's acquired cross bite was a result of her head injury.

The Board has long held that it is unnecessary that the evidence of record in a case be so conclusive as to suggest causal connection beyond all possible doubt. Rather, the evidence required is only that necessary to convince the adjudicator that the conclusion drawn is rational, sound, and logical.¹⁴ Accordingly, as Dr. Grillo's medical opinion, as supported by Dr. Raiche's findings, is well rationalized and logical, it is therefore sufficient to require further development of appellant's claim.¹⁵

It is well established that proceedings under FECA are not adversarial in nature and, while appellant has the burden of proof to establish entitlement to compensation, OWCP shares responsibility in the development of the evidence.¹⁶ OWCP has an obligation to see that justice is done.¹⁷

On remand OWCP shall refer appellant, a statement of accepted facts, and the medical record to an appropriate specialist. The chosen physician shall provide a rationalized opinion as

¹² See *R.M.*, Docket No. 20-0342 (issued July 30, 2020).

¹³ See *T.L.*, Docket No. 18-1187 (issued March 10, 2020).

¹⁴ See *S.M.*, Docket No. 19-1634 (issued August 25, 2020); *W.M.*, Docket No. 17-1244 (issued November 7, 2017); *Kenneth J. Deerman*, 34 ECAB 641, 645 (1983) and cases cited therein.

¹⁵ *S.M.*, *id.*; *J.H.*, Docket No. 18-1637 (issued January 29, 2020); *D.S.*, Docket No. 17-1359 (issued May 3, 2019); *X.V.*, Docket No. 18-1360 (issued April 12, 2019); *C.M.*, Docket No. 17-1977 (issued January 29, 2019); *William J. Cantrell*, 34 ECAB 1223 (1983).

¹⁶ See *S.M.*, *supra* note 14; see also *A.P.*, Docket No. 17-0813 (issued January 3, 2018); *Jimmy A. Hammons*, 51 ECAB 219, 223 (1999); *John J. Carlone*, 41 ECAB 354 (1989).

¹⁷ *Id.*

to whether the diagnosed TMJ and cross bite conditions are causally related to the accepted factors of appellant's federal employment. If the physician opines that the diagnosed conditions are not causally related, he or she must explain, with rationale, how or why the opinion differs from that of Drs. Grillo and Raiche. Following this and such other further development as deemed necessary, OWCP shall issue a *de novo* decision regarding the expansion of appellant's claim to include TMJ.

CONCLUSION

The Board finds that appellant has not met her burden of proof to establish that the acceptance of her claim should be expanded to include the condition of coccydynia as causally related to the accepted August 19, 2011 employment injury. The Board further finds that the case is not in posture for decision with regard to whether appellant's claim should be expanded to include the additional condition of TMJ disorder.

ORDER

IT IS HEREBY ORDERED THAT the January 9, 2019 decision of the Office of Workers' Compensation Programs is affirmed in part and set aside in part and the case is remanded for further proceedings consistent with this decision of the Board.

Issued: November 4, 2020
Washington, DC

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

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

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