

**United States Department of Labor  
Employees' Compensation Appeals Board**

---

**J.F., Appellant**

**and**

**DEPARTMENT OF THE ARMY, ARMY  
BENEFITS CENTER -- CIVILIAN, MEDICAL  
COMMAND, FORT CARSON, CO, Employer**

---

)  
)  
)  
) **Docket No. 20-1604**  
) **Issued: July 8, 2021**  
)  
)  
)

*Appearances:*  
*John S. Evangelisti, Esq.,* for the appellant<sup>1</sup>  
*Office of Solicitor,* for the Director

*Case Submitted on the Record*

**DECISION AND ORDER**

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

**JURISDICTION**

On September 7, 2020 appellant, through counsel, filed a timely appeal from an August 18, 2020 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act<sup>2</sup> (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

---

<sup>1</sup> 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.

<sup>2</sup> 5 U.S.C. § 8101 *et seq.*

## ISSUE

The issue is whether appellant has met her burden of proof to establish an injury in the performance of duty on January 15, 2019, as alleged.

## FACTUAL HISTORY

On January 23, 2019 appellant, then a 55-year-old registered nurse, filed a traumatic injury claim (Form CA-1) alleging that on January 15, 2019 she sustained injuries to her right ankle and foot, and the left side of her body when her right ankle “gave out” and she stumbled and fell on her left side as she was walking in the hallway toward the nurses station while in the performance of duty. She noted that she thought that her right ankle collapsed, and she did not have time to break her fall. Appellant did not stop work.

On January 24, 2019 Dr. Jeannette Mercer, a family practitioner, diagnosed contusion of the left lower extremity and a left arm injury. She noted that, as appellant was walking down the hall at work, her right ankle gave way causing her to fall onto her left side. Appellant reported that she had strained her right ankle on December 30, 2018 while exercising. Dr. Mercer completed an attending physician’s report (Form CA-20) of even date and indicated by checking a box marked “No” that appellant’s conditions were not work related as she injured her right ankle at home which caused the fall at work.

In a February 7, 2019 note, Dr. Autumn N. Dean, a Board-certified family practitioner, diagnosed contusions of the left upper and lower extremities. She noted the history of injury as a fall at work on January 15, 2019 when appellant’s right ankle gave way. Dr. Dean noted that appellant had previously injured her right ankle while exercising at home on December 30, 2018. She also noted that appellant had sought medical treatment and was diagnosed with a right ankle strain and advised that it would get better.

In a March 11, 2019 development letter, OWCP advised appellant of the deficiencies of her claim and instructed her as to the factual and medical evidence necessary to establish her claim. It provided her with a questionnaire for her completion. OWCP afforded appellant 30 days for a response.

In February 7 and March 7, 2019 attending physician’s reports (Form CA-20), Dr. Dean indicated by checking a box marked “No” indicating that she did not believe that appellant’s diagnosed left arm injury and left leg contusion were caused or aggravated by employment activity. She repeated her findings in March 7 and 22, 2019 treatment notes indicating that appellant’s right ankle gave way causing her to fall onto her left side. Dr. Dean reiterated that appellant had previously sustained a right ankle strain on December 30, 2018 while exercising.

In an undated response to OWCP’s development questionnaire, appellant asserted that she was walking down the hall at work and fell. She alleged that she was walking at a normal gait and speed when her right ankle rolled or collapsed and she fell to the floor landing on her left side. Appellant experienced pain in her left arm, shoulder, hip, knee, shin, and right ankle.

In an April 3, 2019 witness statement, K.H., a coworker, noted on January 15, 2019 she heard someone fall and found appellant on the floor in the middle of the hall. She was unsure what had happened or whether appellant had twisted her right ankle. Appellant complained that she had pain in her left arm, knee, and ankle.

By decision dated April 16, 2019, OWCP denied appellant's traumatic injury claim, finding that she had not established that the diagnosed conditions were causally related to the accepted January 15, 2019 employment incident.

In an April 18, 2019 note, Dr. Dean indicated that appellant fell while holding papers in her arms. She completed a Form CA-20 of even date, noting that appellant's right ankle gave way while walking down a hall at work causing appellant to fall on her left side. Dr. Dean indicated by checking a box marked "Yes" that appellant's diagnosed conditions of left shoulder strain and left knee sprain were caused or aggravated by her employment activity.

On January 14, 2020 appellant, through counsel, requested reconsideration of the April 16, 2019 decision. She contended that, while she experienced an ankle strain on December 30, 2018, she had fully recovered from that injury by the time of her fall at work on January 15, 2019. Appellant further asserted that her January 15, 2019 fall was caused by work factors, specifically the medical reports that she was carrying which prevented her from regaining her balance or breaking her fall. She concluded that she had sustained an unexplained fall.

In a December 13, 2019 report, Dr. Jack Rook, a Board-certified physiatrist, noted appellant's history of injury on January 15, 2019. He reported that she had a misstep while walking causing her right ankle to collapse and her to fall on the left side of her body. Dr. Rook noted that Dr. Mercer had attributed appellant's fall to her December 30, 2018 right ankle injury, but that appellant reported that, at the time of her fall, she was not experiencing right ankle symptoms, did not seek medical treatment after January 2, 2018 for her right ankle, and was capable of performing full duty after December 30, 2018. He reviewed magnetic resonance imaging (MRI) studies and found that these exhibited torn supraspinatus tendon and fraying of the infraspinatus tendon in the left shoulder, and a sprained medial collateral ligament in the left knee. Dr. Rook diagnosed left shoulder rotator cuff tear, left knee medial collateral ligament sprain, permanent aggravation of osteoarthritis of the left knee, medial and lateral meniscal tears of the right knee, permanent aggravation of right knee osteoarthritis, resolved right ankle sprain, and bilateral hip and low back pain due to alteration of gait caused by work-related lower extremity conditions.

In a December 21, 2019, appellant asserted that on December 30, 2018 she experienced right ankle pain and swelling after exercising. She sought medical attention and all tests were negative. Within two days of her right ankle injury, appellant alleged that she was symptom free. On January 15, 2019 as she walked down the hall at work, her right ankle rolled or collapsed and she fell injuring her left arm, shoulder, hip, knee, shin, and right ankle. Appellant alleged that at the time of the fall she was carrying work-related medical reports. She asserted that she was unable to regain her balance or break her fall due to holding the medical reports.

By decision dated April 8, 2020, OWCP denied modification of its April 16, 2019 decision.

On April 26, 2020 appellant, through counsel, requested reconsideration. She again contended that she had recovered from her December 30, 2018 right ankle condition within a week. Appellant also alleged that the medical records that she was carrying on January 15, 2019 contributed to her fall. She alleged that Dr. Rook's report was entitled to the weight of the medical opinion evidence or that there was a conflict of medical opinion evidence.

Appellant provided a January 2, 2019 note from Warren D. McDonald, a nurse practitioner, who noted examining her for right ankle pain which developed after she was exercising on a treadmill. She experienced soreness and slight swelling and reported that it hurt to walk. Mr. McDonald diagnosed ankle strain.

By decision dated July 10, 2020, OWCP denied modification of its prior decisions.

On July 27, 2020 appellant, through counsel, requested reconsideration. She contended that OWCP did not considered the contribution of work factors to her fall.

By decision dated August 18, 2020, OWCP denied modification of its prior decisions.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA 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,<sup>3</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>4</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>5</sup>

To determine if an employee has sustained a traumatic injury in the performance of duty, OWCP begins with an analysis of whether fact of injury has been established. Generally, 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.<sup>6</sup> The second component is whether the employment incident caused a personal injury.<sup>7</sup>

---

<sup>3</sup> *S.B.*, Docket No. 17-1779 (issued February 7, 2018); *J.P.*, 59 ECAB 178 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

<sup>4</sup> *J.M.*, Docket No. 17-0284 (issued February 7, 2018); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

<sup>5</sup> *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).

<sup>6</sup> *T.M.*, Docket No. 19-0380 (issued June 26, 2019); *Elaine Pendleton*, 40 ECAB 1143 (1989).

<sup>7</sup> *M.H.*, Docket No. 18-1737 (issued March 13, 2019); *John J. Carlone*, 41 ECAB 354 (1989).

It is a well-settled principle of workers' compensation law, and the Board has so held, that an injury resulting from an idiopathic fall -- where a personal, nonoccupational pathology causes an employee to collapse and to suffer injury upon striking the immediate supporting surface and there is no intervention or contribution by any hazard or special condition of employment -- is not within coverage of FECA.<sup>8</sup> Such an injury does not arise out of a risk connected with the employment and is, therefore, not compensable. However, as the Board has made equally clear, the fact that the cause of a particular fall cannot be ascertained or that the reason it occurred cannot be explained, does not establish that it was due to an idiopathic condition.<sup>9</sup>

This follows from the general rule that an injury occurring on the industrial premises during working hours is compensable unless the injury is established to be within an exception to such general rule.<sup>10</sup> OWCP has the burden of proof to submit medical evidence showing the existence of a personal, nonoccupational pathology if it chooses to make a finding that a given fall is idiopathic in nature.<sup>11</sup> If the record does not establish that the particular fall was due to an idiopathic condition, it must be considered as merely an unexplained fall, one which is distinguishable from a fall in which it is definitely proven that a physical condition preexisted and caused the fall.<sup>12</sup>

### ANALYSIS

The Board finds that appellant has established that the January 15, 2019 incident occurred in the performance of duty, as alleged.

In determining whether appellant's injury occurred in the performance of duty, the Board must first consider factors to determine whether the January 15, 2019 incident was caused by an idiopathic fall. Factors to be considered include whether there is evidence of a preexisting condition that caused her to fall, whether there were any intervening circumstances or conditions that contributed to her fall, and whether she struck any part of her body against a wall, piece of equipment, furniture, or similar object as she fell.<sup>13</sup> As previously noted, OWCP bears the burden of proof to establish an idiopathic fall.<sup>14</sup>

---

<sup>8</sup> *J.W.*, Docket No. 20-0598 (issued December 2, 2020); *A.B.*, Docket No. 17-1689 (issued December 4, 2018); *L.G.*, Docket No. 13-0927 (issued August 27, 2013); *Carol A. Lyles*, 57 ECAB 265 (2005).

<sup>9</sup> *J.W.*, *id.*; *M.M.*, Docket No. 08-1510 (issued November 25, 2008).

<sup>10</sup> *Dora J. Ward*, 43 ECAB 767 (1992); *Fay Leiter*, 35 ECAB 176 (1983).

<sup>11</sup> *J.W.*, *supra* note 8; *P.P.*, Docket No. 15-0522 (issued June 1, 2016).

<sup>12</sup> *See D.T.*, Docket No. 19-1486 (issued January 17, 2020); *P.N.*, Docket No. 17-1283 (issued April 5, 2018); *John R. Black*, 49 ECAB 624 (1998); *Judy Bryant*, 40 ECAB 207 (1988); *Martha G. List*, 26 ECAB 200 (1974).

<sup>13</sup> *D.T.*, *id.*; *P.P.*, *supra* note 11; *Jennifer Atkerson*, 55 ECAB 317 (2004).

<sup>14</sup> *Supra* note 11.

On her claim form, appellant alleged that she was injured as a result of falling and hitting the floor on January 15, 2019 after her right ankle rolled or gave way while in the performance of duty.

The Board finds that the evidence of record fails to establish that appellant's January 15, 2019 fall was solely the result of a personal, nonoccupational pathology.<sup>15</sup> Various medical reports, including Dr. Mercer's January 24, 2019 report, Dr. Dean's February 7 through April 18, 2019 reports, and Dr. Rook's December 13, 2019 report, describe how appellant injured her right ankle on December 30, 2018 while exercising. However, she asserted, and Dr. Rook found, that she had no right ankle symptoms after January 2, 2019 and could perform her full-duty work with no restrictions on January 15, 2019. There is no medical evidence supporting that appellant sought additional treatment for her right ankle between January 2 and 15, 2019. The factual evidence also indicates that appellant was walking and carrying medical records when she fell.<sup>16</sup> Dr. Rook opined in his December 13, 2019 report that appellant's previous right ankle condition was not the sole cause of her fall on January 15, 2019 which he attributed in part to a misstep while in the performance of duty.

While Dr. Mercer reported on January 24, 2019 that appellant had a preexisting right ankle condition, and indicated by checking a box marked "No" on her Form CA-20 report of even date that the January 15, 2019 incident was not employment related, the Board has held that an opinion on causal relationship with check mark, without more by way of medical rationale, is insufficient to establish the opinion asserted.<sup>17</sup> In February 7 and March 7, 2019 Form CA-20 reports, Dr. Dean checked a box marked "No" indicating that appellant's January 15, 2019 fall was not employment related; however, in an April 18, 2019 Form CA-20 she checked a box marked "Yes" indicating that appellant's January 15, 2019 fall was employment related. The Board has found that inconsistent and contradictory reports from the same physician lack probative value and cannot constitute competent medical evidence.<sup>18</sup> As such these reports are insufficient to meet OWCP's burden of proof to establish that appellant experienced an idiopathic fall on January 15, 2019.

The Board has held that the mere fact that an employee has a preexisting medical condition, without supporting medical rationale to establish that it was the cause of the employment incident, is insufficient to establish that a fall is idiopathic.<sup>19</sup> If the record does not establish that, a particular fall was due to an idiopathic condition, it must be considered as merely an unexplained fall, one which is distinguishable from a fall in which it is definitely proved that a physical condition was

---

<sup>15</sup> *D.M.*, Docket No. 18-1552 (issued June 2, 2020).

<sup>16</sup> See *M.A.*, Docket No. 19-0341 (issued July 10, 2019) (in which appellant attributed his fall to a personal, nonoccupational pathology without employment contribution); *Anne Elizabeth Gruber*, 04-1769 (issued January 24, 2005) (in which appellant's physicians attributed her fall to her preexisting Parkinson's disease with a reasonable degree of medical certainty).

<sup>17</sup> *H.S.*, Docket No. 20-0939 (issued February 12, 2012).

<sup>18</sup> *Id.*

<sup>19</sup> *Steven S. Saleh*, 55 ECAB 169 (2003).

preexisting and caused the fall.<sup>20</sup> The Board finds that OWCP has failed to meet its burden to establish that appellant's fall at work was of an idiopathic nature with no contribution or intervention from employment factors; therefore, it is unexplained.<sup>21</sup> The evidence of record is sufficient to require OWCP to further develop the medical evidence and the case record.<sup>22</sup>

Accordingly, the case will be remanded for OWCP to determine whether appellant sustained an injury causally related to the January 15, 2019 unexplained fall, and if so, to also determine the nature and extent of disability, if any. Following any further development deemed necessary, OWCP shall issue a *de novo* decision.

### **CONCLUSION**

The Board finds that appellant has established that the January 15, 2019 incident occurred in the performance of duty, as alleged. The Board further finds that the case is not in posture for decision regarding whether appellant has established an injury causally related to the January 15, 2019 unexplained fall.

---

<sup>20</sup> *Id.*

<sup>21</sup> *R.D.*, Docket No. 13-1854 (issued December 23, 2014).

<sup>22</sup> *Robert A. Redmond*, 40 ECAB 796, 801 (1989).

**ORDER**

**IT IS HEREBY ORDERED THAT** the August 18, 2020 decision of the Office of Workers' Compensation Programs is reversed. The case is remanded to OWCP for further proceedings consistent with this decision of the Board.

Issued: July 8, 2021  
Washington, DC

Janice B. Askin, Judge  
Employees' Compensation Appeals Board

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

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