

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

M.C., Appellant)	
)	
and)	Docket No. 24-0276
)	Issued: April 17, 2024
SOCIAL SECURITY ADMINISTRATION,)	
Montebello, CA, Employer)	
)	

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Chief Judge
JANICE B. ASKIN, Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On January 24, 2024 appellant filed a timely appeal from a September 22, 2023 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act¹ (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.²

ISSUE

The issue is whether appellant has met her burden of proof to establish a medical condition causally related to the accepted June 7, 2023 employment incident.

¹ 5 U.S.C. § 8101 *et seq.*

² The Board notes that, following the September 22, 2023 decision, OWCP received additional evidence. However, the Board's *Rules of Procedure* provides: "The Board's review of a case is limited to the evidence in the case record that was before OWCP at the time of its final decision. Evidence not before OWCP will not be considered by the Board for the first time on appeal." 20 C.F.R. § 501.2(c)(1). Thus, the Board is precluded from reviewing this additional evidence for the first time on appeal. *Id.*

FACTUAL HISTORY

On June 28, 2023 appellant, then a 51-year-old work unit supervisor, filed a traumatic injury claim (Form CA-1) alleging that on June 7, 2023 she sustained chest and neck pain, and experienced anxiety, and “elevated” high blood pressure when she was assaulted while in the performance of duty. She explained that, as she was reviewing evidence for case approval, the employee became agitated, pulled her hair, and when she tried to get up, her foot became tangled in the computer cords causing her to fall. Appellant also alleged that the medication she was prescribed for her anxiety and high blood pressure caused other medical conditions. She stopped work on June 12, 2023 and returned to regular-duty work with no restrictions on June 30, 2023.

In a June 19, 2023 excuse slip, Dr. Franck Juste, a Board-certified internist, opined that appellant was unable to perform work duties for the period June 20 to 26, 2023 due to drowsiness, breathing problems, and cough.

In a June 27, 2023 medical note, Dr. Edward Nguyen, a Board-certified osteopath specializing in emergency medicine, opined that appellant had respiratory complications and she could return to work on June 30, 2023.

In a July 21, 2023 development letter, OWCP advised appellant of the deficiencies of her claim. It requested additional factual and medical evidence and provided a questionnaire for her completion. OWCP afforded appellant 60 days to provide the requested information.

OWCP received an undated statement from the employing establishment, which detailed the investigation into the alleged June 7, 2023 incident,³ and a June 25, 2023 statement from E.D., who denied witnessing any coworker R. pull appellant’s hair or appellant falling from her chair on June 7, 2023.

In an August 8, 2023 attending physician’s report (Form CA-20), Dr. Juste diagnosed post-traumatic stress disorder (PTSD), anxiety, chronic stress, migraine headaches, acute high blood pressure, diabetes complications and acute neuropathic pain, which he opined was caused or aggravated by the June 7, 2023 assault and trip and fall. He explained that the incident caused anxiety and aggravated high blood pressure and neuropathic pain. Dr. Juste opined that appellant was totally disabled from work. He noted that she was seen in Urgent Care on June 10, 2023 due to anxiety, PTSD, chronic stress, and acute neuropathic pain.

By decision dated September 22, 2023, OWCP denied appellant’s traumatic injury claim, finding that the evidence of record was insufficient to establish that the claimed medical conditions were causally related to the accepted June 7, 2023 employment incident.

³ The investigation revealed that coworker R. had admitted to touching, but not pulling, appellant’s ponytail.

LEGAL PRECEDENT

An employee seeking benefits under FECA⁴ 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 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. There are two components involved in establishing fact of injury. The first component is whether the employee actually experienced the employment incident at the time and place, and in the manner alleged. The second component is whether the employment incident caused an injury.⁸

The medical evidence required to establish causal relationship between a claimed specific condition and an employment incident is rationalized medical opinion evidence.⁹ 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 incident.¹⁰

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish a medical condition causally related to the accepted June 7, 2023 employment incident.

In an August 8, 2023 Form CA-20, Dr. Juste diagnosed PTSD, anxiety, chronic stress, migraine headaches, acute high blood pressure, diabetes complications and acute neuropathic pain which he opined that was caused or aggravated by the June 7, 2023 incident as the incident caused

⁴ *Supra* note 1.

⁵ *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).

⁶ *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).

⁷ *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).

⁸ *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).

⁹ *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).

¹⁰ *O.P.*, Docket No. 19-0445 (issued July 24, 2019); *L.H.*, Docket No. 18-1217 (issued May 3, 2019); *S.C.*, Docket No. 16-0293 (issued May 10, 2016); *A.C.*, Docket No. 08-1453 (issued November 18, 2008).

anxiety and aggravated high blood pressure and neuropathic pain. He also noted that appellant was seen in Urgent Care on June 10, 2023 due to anxiety, PTSD, chronic stress and acute neuropathic pain. Although he generally supported causal relationship, Dr. Juste did not provide sufficient medical rationale explaining how the accepted June 7, 2023 employment incident caused or contributed to her diagnosed medical conditions.¹¹ He did not explain, physiologically, how appellant's specific work incident caused or contributed to appellant's diagnosed medical conditions. The Board has held that a medical opinion should offer a medically-sound explanation of how the specific employment incident physiologically caused the diagnosed condition.¹² For these reasons, the Board finds that Dr. Juste's report is of limited probative value.¹³

OWCP also received a June 19, 2023 excuse slip in which Dr. Juste opined that appellant was unable to work for the period June 20 to 26, 2023 due to drowsiness, breathing problems and cough, and a June 27, 2023 medical note from Dr. Nguyen, who opined that she had respiratory complications and she could return to work on June 30, 2023. However, neither physician offered an opinion on causal relationship. Medical evidence that fails to address causation is of no probative value on that issue.¹⁴ For this reason these reports are insufficient to meet appellant's burden of proof.

As the evidence of record is insufficient to establish a medical condition causally related to the accepted June 7, 2023 employment incident, the Board finds that appellant has not met her burden of proof.

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 medical condition causally related to the accepted June 7, 2023 employment incident.

¹¹ *M.F.*, Docket No. 21-0533 (issued January 31, 2023); *G.H.*, Docket No. 21-1225 (issued January 30, 2023); *T.W.*, Docket No. 20-0767 (issued January 13, 2021); *see H.A.*, Docket No. 18-1466 (issued August 23, 2019); *L.R.*, Docket No. 16-0736 (issued September 2, 2016).

¹² *See S.S.*, Docket No. 21-1384 (issued June 13, 2023); *F.U.*, Docket No. 22-1205 (issued January 9, 2023); *S.D.*, Docket No. 22-1006 (issued December 5, 2022); *R.B.*, Docket No. 18-0162 (issued July 24, 2019); *C.M.*, Docket No. 17-1977 (issued January 29, 2019).

¹³ *V.L.*, Docket No. 20-0884 (issued February 12, 2021); *G.H.*, Docket No. 21-1225 (issued January 30, 2023); *T.L.*, Docket No. 18-0778 (issued January 22, 2020); *Y.S.*, Docket No. 18-0366 (issued January 22, 2020); *A.P.*, Docket No. 19-0224 (issued July 11, 2019). *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

¹⁴ *M.O.*, Docket No. 21-0940 (issued January 25, 2023); *C.G.*, Docket No. 20-0957 (issued January 27, 2021); *L.G.*, Docket No. 20-0433 (issued August 6, 2020); *S.D.*, Docket No. 20-0413 (issued July 28, 2020); *S.K.*, Docket No. 20-0102 (issued June 12, 2020); *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

ORDER

IT IS HEREBY ORDERED THAT the September 22, 2023 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: April 17, 2024
Washington, DC

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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