United States Department of Labor
Employees' Compensation Appeals Board

O.A., Appellant	)	
and	)	**Docket No. 24-0105**
	)	**Issued: March 6, 2024**
DEPARTMENT OF THE AIR FORCE, DIRECTORATE OF PERSONNEL SUPPORT, JOINT BASE LEWIS-McCHORD, WA, 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
PATRICIA H. FITZGERALD, Deputy Chief Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On November 6, 2023, appellant filed a timely appeal from an October 2, 2023 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act[1] (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

ISSUE

The issue is whether appellant has met his burden of proof to establish a medical condition causally related to the accepted February 23, 2023 employment incident.

FACTUAL HISTORY

On March 6, 2023, appellant, then a 58-year-old diversity and inclusion manager, filed a traumatic injury claim (Form CA-1) alleging that on February 22, 2023, he sustained left foot and

[1] 5 U.S.C. § 8101 *et seq*.

knee injuries when he slipped and fell in an icy parking lot while in the performance of duty.[2] He stopped work on February 23, 2023 and returned to full duty on March 13, 2023.

In an after-visit summary dated March 3, 2023, Dr. Sam Lu, an emergency medicine specialist, diagnosed left knee sprain.

In a note dated March 14, 2023, Jamie L. Schroff, a physician assistant, noted that appellant had received a left knee cortisone injection and that he was able to return to work the next day.

In a development letter dated May 24, 2023, OWCP informed appellant that his claim had been reopened because his employing establishment had submitted a late controversion of the claim. It related that appellant had submitted insufficient factual and medical evidence to establish his claim. It advised him of the type of evidence needed and provided a questionnaire for his completion. OWCP afforded appellant 60 days to respond.

OWCP subsequently sent appellant a follow-up development letter dated July 6, 2023, requesting a rationalized medical report from a physician containing the physician's opinion as to how his injury resulted in his diagnosed condition. The letter was returned as undeliverable.

On July 31, 2023, pursuant to the request from OWCP, the employing establishment provided appellant's updated address.

On August 25, 2023, OWCP sent a copy of the July 6, 2023, follow-up development letter to appellant at his updated address, and afforded appellant 30 days to provide the requested information. No response was received.

By decision dated October 2, 2023, OWCP denied appellant's claim, finding that the medical evidence of record was insufficient to establish a medical condition causally related to the accepted February 23, 2023 employment incident.

LEGAL PRECEDENT

An employee seeking benefits under FECA[3] 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,[4] 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

[2] On March 9, 2023 appellant clarified that his slip and fall actually occurred on February 23, 2023, not February 22, 2023.

[3] *Id*.

[4] *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).

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 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. 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.[7]

The medical evidence required to establish causal relationship between a claimed specific condition and an employment incident is rationalized medical opinion evidence.[8] 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.[9]

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish a medical condition causally related to the accepted February 23, 2023 employment incident.

In support of his claim, appellant submitted an after-visit summary dated March 3, 2023 from Dr. Lu, in which he diagnosed left knee sprain. However, Dr. Lu did not provide an opinion regarding the cause of appellant's diagnosis. The Board has held that 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.[10] This after-visit summary is, therefore, insufficient to establish appellant's claim.

[5] *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).

[6] *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).

[7] *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).

[8] *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).

[9] *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).

[10] *P.L.*, Docket No. 19-1750 (issued March 26, 2020); *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.,* Docket No. 17-1549 (issued July 6, 2018); *Willie M. Miller*, 53 ECAB 697 (2002).

Appellant also submitted a note from a physician assistant dated March 14, 2023. Certain healthcare providers such as physician assistants, nurse practitioners, physical therapists, and social workers, however, are not considered "physician[s]" as defined under FECA.[11] Consequently, the findings of the physician assistants will not suffice for the purpose of establishing entitlement to FECA benefits.[12]

As the medical evidence of record is insufficient to establish a medical condition causally related to the accepted February 23, 2023 employment incident, the Board finds that appellant has not met his 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 his burden of proof to establish a medical condition causally related to the accepted February 23, 2023 employment incident.

[11] Section 8101(2) of FECA provides that medical opinions can only be given by a qualified physician. This section 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. 5 U.S.C. § 8101(2); 20 C.F.R. § 10.5(t). *See* Federal (FECA) Procedure Manual, Part 2 -- Claims*, Causal Relationship*, Chapter 2.805.3a(1) (January 2013); *David P. Sawchuk*, 57 ECAB 316, 320 n.11 (2006); *see also R.K.,* Docket No. 20-0049 (issued April 10, 2020) (physician assistants are not considered physicians under FECA).

[12] *See id.*

ORDER

IT IS HEREBY ORDERED THAT the October 2, 2023 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: March 6, 2024
Washington, DC

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

Patricia H. Fitzgerald, Deputy Chief Judge
Employees' Compensation Appeals Board

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