United States Department of Labor
Employees' Compensation Appeals Board

A.A., Appellant	)	
and	)	**Docket No. 21-0802**
	)	**Issued: December 27, 2021**
U.S. POSTAL SERVICE, POST OFFICE, Newark, NJ, Employer	)	

Appearances:
Appellant, pro se
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 April 15, 2021 appellant filed a timely appeal from a March 22, 2021 merit decision of the Office of Workers' Compensation Programs (OWCP).[1] Pursuant to the Federal Employees' Compensation Act[2] (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 her burden of proof to establish a medical condition causally related to the accepted February 4, 2021 employment incident.

[1] The Board notes that, following the March 22, 2021 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*.

[2] 5 U.S.C. § 8101 *et seq*.

FACTUAL HISTORY

On February 8, 2021 appellant, then a 26-year-old city carrier, filed a traumatic injury claim (Form CA-1) alleging that on February 4, 2021 she injured her left ankle, head, and left side of her body due to slipping and falling on ice while in the performance of duty. She stopped work on the date of injury.

In a statement dated February 4, 2021, B.F., an employing establishment supervisor, indicated that he responded to a call from appellant regarding her injury and upon arrival, she related to him that she had slipped and fallen on ice, striking her head. He noted that he observed the icy conditions and also noted that she left the scene in an ambulance.

Dr. Michael Evan Sullivan, an emergency room physician, in a February 4, 2021 note released appellant to return to work, effective February 7, 2021, with restrictions of no shoveling, lifting, pushing, pulling, operating mobile equipment, or prolonged walking, standing or sitting.

In a note dated February 6, 2021, Izabela Urbaniec, a physician assistant, indicated that appellant complained of pain in the right hand, lower back, left hip, left ankle, and the left side of her neck radiating into her head, which she attributed to slipping and falling on ice onto her left side and head while delivering a package on February 4, 2021. On physical examination she noted tenderness to palpation of the lumbar spine, right wrist, and neck, swelling of the right wrist, and an unsteady gait. Ms. Urbaniec diagnosed a left ankle sprain and recommended a consultation with a neurologist.

In a medical report dated February 8, 2021, Dr. Mahmud Ibrahim, a pain management physician, noted that appellant was complaining of pain in her neck, low back, head, and right wrist, which she attributed to slipping and falling on ice while working on February 4, 2021. He indicated that she suffered significant flexion/extension forces on her body due to the impact and that she was seen in the emergency room on the date of the accident and at urgent care two days later. Dr. Ibrahim performed a physical examination and found a lack of effort during motor examination of the extremities, diminished sensation to light touch throughout the bilateral upper and lower extremities in a non-dermatomal pattern, and tenderness to the cervical and lumbar paraspinal muscles and right wrist. He diagnosed cervicalgia, cervical and lumbar radiculopathy, low back pain, cervical facet syndrome, myofascial pain, degeneration of cervical and lumbar intervertebral discs, lumbar spondylosis, numbness, concussion, and a closed fracture of the right wrist with routine healing. Dr. Ibrahim opined that appellant's headaches and pain in her right wrist, low back, and neck were a direct result of the employment incident. He explained that she was pain free prior to the accident and, therefore, her pain was a direct result of the February 4, 2021 fall. In a note of even date, Dr. Ibrahim recommended that appellant remain off work for four weeks.

In a follow-up note dated February 10, 2021, Ms. Urbaniec diagnosed left ankle sprain, head trauma, headache, left hip contusion, strain of fascia of lower back, and neck pain and recommended that appellant remain off work.

In an attending physician's report (Form CA-20) dated February 12, 2021, Dr. Ibrahim noted that appellant related a prior history of headaches and that she had slipped and fallen on ice

onto her back on February 4, 2021. He diagnosed cervical and lumbar radiculopathy and checked a box marked "Yes," indicating that her conditions were caused or aggravated by the described employment activity.

In a February 17, 2021 development letter, OWCP informed appellant of the deficiencies of her claim. It advised her of the type of factual and medical evidence needed to establish her claim and requested a narrative medical report from her treating physician containing a detailed description of findings and a diagnosis, explaining how her work incident caused or aggravated a medical condition. OWCP afforded appellant 30 days to submit the necessary evidence.

OWCP thereafter received emergency room records dated February 4, 2021 including a provider note by Dr. Sullivan indicating that appellant related a history of slipping and falling onto her head. Dr. Sullivan further noted that she experienced a questionable loss of consciousness and was experiencing pain in her head, left hip and left ankle. On physical examination he noted that appellant reported tenderness in her head, but that otherwise her examination was normal. Dr. Sullivan ordered a computerized tomography (CT) scan of the head and neck and x-rays of the left ankle. Each of these studies was normal. Dr. Sullivan diagnosed a concussion, contusion of pelvic region, and sprain of the left ankle.

OWCP also received a work excuse note dated March 12, 2021, written on a prescription blank bearing the name of Dr. Matthew J. DeLuca, a neurologist.

By decision dated March 22, 2021, OWCP denied appellant's traumatic injury claim, finding that the evidence of record was insufficient to establish a diagnosed conditions causally related to the accepted February 4, 2021 employment incident. Consequently, it found that she had not met the requirements to establish an injury or condition resulting from the accepted 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 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]

[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).

[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).

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 and place, and in the manner alleged. Second component is whether the employment incident caused a personal 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] A physician's opinion on whether there is causal relationship between the diagnosed condition and the implicated employment incident must be based on a complete factual and medical background.[9] Additionally, the physician's opinion must be expressed in terms of a reasonable degree of medical certainty, and must be supported by medical rationale, explaining the nature of the relationship between the diagnosed condition and appellant's specific employment incident.[10]

In any case where a preexisting condition involving the same part of the body is present and the issue of causal relationship, therefore, involves aggravation, acceleration or precipitation, the physician must provide a rationalized medical opinion that differentiates between the effects of the work-related injury or disease and the preexisting condition.[11]

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish a medical condition causally related to the accepted February 4, 2021 employment incident.

In his medical report dated February 8, 2021, Dr. Ibrahim opined that appellant's headaches and pain in her right wrist, low back, and neck were a direct result of slipping and falling on ice on February 4, 2021. He noted that the incident involved significant flexion and extension forces "on her body," but attributed only her complaints of pain to the fall, because she reported that she was pain free prior to the accident. However, Dr. Ibrahim failed to explain, with adequate rationale, how the accepted employment incident of slipping and falling onto her head and/or left side and/or back either caused or contributed to any of his medical diagnoses. The Board has found that medical evidence that states a conclusion, but does not offer a rationalized medical explanation by the physician of how the specific employment incident physiologically caused or aggravated the diagnosed conditions, is of limited probative value on the issue of causal

[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] *C.F.*, Docket No. 18-0791 (issued February 26, 2019); *Jacqueline M. Nixon-Steward*, 52 ECAB 140 (2000).

[10] *Id*.

[11] Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3e (January 2013); *M.B.*, Docket No. 20-1275 (issued January 29, 2021); *see R.D.*, Docket No. 18-1551 (issued March 1, 2019).

relationship.[12] Thus, the Board finds that the February 8, 2021 report from Dr. Ibrahim is insufficient to establish causal relationship.

In a Form CA-20 dated February 12, 2021, Dr. Ibrahim diagnosed cervical and lumbar radiculopathy and checked a box marked "Yes" indicating that appellant's conditions had been caused or aggravated by an employment activity. He also noted her history of preexisting headaches. The Board has held that an opinion on causal relationship with an affirmative check mark, without more by way of medical rationale, is insufficient to establish the claim.[13] Thus, the Board finds that the February 12, 2021 Form CA-20 by Dr. Ibrahim is insufficient to establish causal relationship.

In emergency room records dated February 4, 2021, Dr. Sullivan diagnosed a concussion, contusion of pelvic region, and sprain of the left ankle. However, the records do not contain an opinion on causation. Similarly, the March 12, 2021 work excuse note does not contain an opinion on causation. The Board has held that medical evidence that does not offer an opinion regarding the cause of an employee's condition is of no probative value on the issue of causal relationship.[14] Therefore, this medical evidence is insufficient to establish appellant's claim.

The remaining medical evidence of record consists of notes by a physician assistant dated February 6 and 10, 2021. Certain healthcare providers such as physician assistants, nurse practitioners, physical therapists, and social workers are not considered "physician[s]" as defined under FECA.[15] Consequently, their medical findings and/or opinions will not suffice for purposes of establishing entitlement to FECA benefits.[16]

As the medical evidence of record is insufficient to establish causal relationship between appellant's conditions and the accepted February 4, 2021 employment incident, the Board finds that appellant has not met her burden of proof.

[12] *T.G.*, Docket No. 21-0175 (issued June 23, 2021); *J.D.*, Docket No. 19-1953 (issued January 11, 2021); *see K.W.*, Docket No. 19-1906 (issued April 1, 2020).

[13] *See R.H.*, Docket No. 20-1684 (issued August 27, 2021); *C.S.*, Docket No. 18-1633 (issued December 30, 2019); *D.S.*, Docket No. 17-1566 (issued December 31, 2018); *Gary J. Watling*, 52 ECAB 278 (2001).

[14] *See L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

[15] Section 8101(2) provides that under FECA the term physician includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, and osteopathic practitioners within the scope of their practice as defined by the applicable 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) (lay individuals such as physician assistants, nurses, and physical therapists are not competent to render a medical opinion under FECA); *see also R.L.*, Docket No. 19-0440 (issued July 8, 2019) (nurse practitioners and physical therapists are not considered physicians under FECA).

[16] *D.P.*, Docket No. 19-1295 (issued March 16, 2020); *G.S.*, Docket No. 18-1696 (issued March 26, 2019); *see M.M.*, Docket No. 17-1641 (issued February 15, 2018); *K.J.*, Docket No. 16-1805 (issued February 23, 2018); *David P. Sawchuk*, *id*.

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 February 4, 2021 employment incident.

ORDER

IT IS HEREBY ORDERED THAT the March 22, 2021 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: December 27, 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