United States Department of Labor
Employees' Compensation Appeals Board

S.M., Appellant	)	
and	)	**Docket No. 16-0591**
	)	**Issued: September 2, 2016**
U.S. POSTAL SERVICE, POST OFFICE, Havelock, NC, Employer	)	

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

Case Submitted on the Record

DECISION AND ORDER

Before:
CHRISTOPHER J. GODFREY, Chief Judge
PATRICIA H. FITZGERALD, Deputy Chief Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On February 8, 2016 appellant filed a timely appeal of a December 4, 2015 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 met his burden of proof to establish a traumatic injury causally related to an October 14, 2015 employment incident.

FACTUAL HISTORY

On October 15, 2015 appellant, then a 51-year-old mail carrier, filed a traumatic injury claim (Form CA-1) alleging that on October 14, 2015 he sustained injuries to his head, neck, shoulder, right knee, shin, and ankle and low back when he fell down steps in the performance of

[1] 5 U.S.C. § 8101 *et seq.*

duty. He stopped work on October 14, 2015. An employing establishment representative checked a box marked "yes" in response to whether the facts about the injury were consistent with the statements of the witnesses.

Appellant also submitted an authorization for examination and/or treatment (Form CA-16), dated October 19, 2015 and signed by a supervisor. He was authorized to visit Carteret General Hospital.

In an October 26, 2015 letter, OWCP advised appellant that his claim initially appeared to be a minor injury that resulted in minimal or no lost time from work and his claim was administratively handled to allow a limited amount of medical payments. However, appellant's claim was now being reopened because he had not returned to work. OWCP informed him of the type of evidence needed to support his claim and requested that he submit such evidence within 30 days.

In October 14, 2015 reports, Dr. Arthur Henderson, Board-certified in emergency medicine, saw appellant for head and knee injuries and recommended follow up with his primary care physician.

OWCP received an October 19, 2015 disability certificate from Dr. John Rickabaugh, a Board-certified family practitioner, who placed appellant off work after he saw his orthopedist.

In an October 23, 2015 report, Dr. Jeffery K. Moore, an orthopedist specializing in sports medicine, noted that appellant had fallen down a flight of stairs during work and had residual problems of the right knee and right shoulder. He advised that the right knee was hyperflexed and externally rotated when he landed at the bottom of the stairs. Dr. Moore noted that appellant had signs of a possible anterior cruciate ligament tear and possible medial meniscus tear. He opined that the medial collateral ligament strain was mild. Dr. Moore recommended magnetic resonance imaging (MRI) scan testing as the best method to diagnose the specific intra-articular injuries. He also explained that appellant's right shoulder became significantly painful about two days after the fall. Dr. Moore diagnosed sprain of the right shoulder and knee. He provided a work restriction excuse placing him off work pending his MRI scan follow-up appointment.

In a November 5, 2015 report, Dr. Moore related that appellant described multiple injuries following a fall down stairs, to include: a sprain down to the right knee; low back neck and shoulder pain; and contusions to the left thigh, knee, shin, and ankle. He diagnosed internal derangement of the knee and a shoulder sprain. Dr. Moore checked a box marked "yes" in response to whether he believed the condition was caused or aggravated by the workplace incident. He advised that he recommended a right knee MRI scan and a shoulder injection. Dr. Moore indicated no work until the MRI scan was completed.

In a November 12, 2015 report, Dr. Heather Seymour, a Board-certified diagnostic radiologist, noted that appellant fell and injured his knee on October 14, 2015 and sustained anterior and medial knee pain. She advised that x-rays were obtained of the right knee and they revealed findings which included: minimal knee joint effusion, no Baker's cyst, and unremarkable patellar cartilage. Dr. Seymour diagnosed: moderate grade II sprain anterior fibers medial collateral ligament with adjacent soft tissue edema and minimal subjacent bone

contusion, possible free edge tear apex of the body of the lateral meniscus, bone contusions posterior lateral femoral condyle and posterior lateral tibial plateau, and small suspected ganglion cyst adjacent to the fibular head at the junction of the biceps femoris and fibular collateral ligament.

In a November 16, 2015 report, Dr. Moore advised that appellant was seen for a recheck of the right knee pain. She examined appellant and found that he reported limited motion and myalgia, shoulder pain, and knee pain. Dr. Moore diagnosed acute meniscal tear, lateral and radial. She recommended an arthroscopic procedure to debride or repair the meniscus tear as well as any other procedures as indicated at the time of surgery.

By decision dated December 4, 2015, OWCP denied appellant's claim as he had not established an injury causally related to the October 14, 2015 incident.

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,[2] and that an injury was sustained in the performance of duty.[3] These are the essential elements of each compensation claim, regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.[4]

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it first must be determined whether the fact of injury has been established. There are two components involved in establishing the fact of injury. First, the employee must submit sufficient evidence to establish that he actually experienced the employment incident at the time, place, and in the manner alleged.[5] In some traumatic injury cases, this component can be established by an employee's uncontroverted statement on the Form CA-1.[6] Second, the employee must submit sufficient evidence, generally only in the form of medical evidence, to establish that the employment incident caused a personal injury.[7]

Rationalized medical opinion evidence is generally required to establish causal relationship. The opinion of the physician must be based on a complete factual and medical background, must be one of reasonable medical certainty and must be supported by medical

[2] *Joe D. Cameron*, 41 ECAB 153 (1989).

[3] *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

[4] *Delores C. Ellyett*, 41 ECAB 992 (1990).

[5] *Julie B. Hawkins*, 38 ECAB 393, 396 (1987).

[6] *John J. Carlone*, 41 ECAB 354 (1989).

[7] *Id.* For a definition of the term "traumatic injury," see 20 C.F.R. § 10.5(ee).

rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.[8]

ANALYSIS

In this case, appellant alleged that on October 14, 2015 he sustained multiple injuries in the performance of duty. There is no dispute that the claimed event occurred as alleged, *i.e.*, that appellant fell down steps occurred at work as alleged.

However, the Board further finds that the medical evidence of record is insufficiently rationalized to establish the second component of fact of injury, that the employment incident caused an injury. The medical evidence contains no reasoned explanation of how the specific employment incident on October 14, 2015 caused or aggravated an injury.[9]

Appellant submitted several medical reports. They included an October 23, 2015 report from Dr. Moore, who noted that appellant's history of injury was comprised of a fall down a flight of stairs during work and that he had residual problems of the right knee and right shoulder. He advised that the right knee was hyperflexed and externally rotated when he landed at the bottom of the stairs. Dr. Moore noted that appellant had signs of a possible anterior cruciate ligament tear and possible medial meniscus tear. He opined that he thought the medial collateral ligament strain was mild and recommended a right knee MRI scan. Dr. Moore also explained that appellant's right shoulder became significantly painful about two days after the fall and diagnosed sprain of the right shoulder and knee. The Board notes that while he described appellant's activities he did not offer any opinion on causal relationship. Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. 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.[10] Thus, Dr. Moore's October 23, 2015 report is of diminished probative value.

In a November 5, 2015 report, Dr. Moore related that appellant described multiple injuries following a fall down stairs, to include: a sprain down to the right knee; low back neck and shoulder pain; contusions to the left thigh, knee, shin, and ankle. He diagnosed internal derangement of the knee and a shoulder sprain. Dr. Moore checked a box marked "yes" in response to whether he believed the condition was caused or aggravated by the employment activity. However, he did not explain how he arrived at this conclusion. The checking of a box

[8] *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 345 (1989).

[9] *See George Randolph Taylor*, 6 ECAB 986, 988 (1954) (where the Board found that a medical opinion not fortified by medical rationale is of little probative value).

[10] *A.D.*, 58 ECAB 149 (2006); *J.M.*, 58 ECAB 478 (2007); *L.D.*, 58 ECAB 344 (2007); *G.G.*, 58 ECAB 389 (2007); *D.E.*, 58 ECAB 448 (2007).

marked "yes" in a form report, without additional explanation or rationale, is insufficient to establish causal relationship.[11]

In a November 16, 2015 report, Dr. Moore recommended an arthroscopic procedure to debride or repair the meniscus tear as well as any other procedures as indicated at the time of surgery. However, he did not offer any opinion on causal relationship.[12]

OWCP received a November 12, 2015 diagnostic report from Dr. Seymour who diagnosed: moderate grade II sprain anterior fibers medial collateral ligament with adjacent soft tissue edema and minimal subjacent bone contusion, possible free edge tear apex of the body of the lateral meniscus, bone contusions posterior lateral femoral condyle and posterior lateral tibial plateau, and small suspected ganglion cyst adjacent to the fibular head at the junction of the biceps femoris and fibular collateral ligament. However, this report is insufficient to establish the claim as the report does not address how the employment incident caused or contributed to a diagnosed medical condition.[13]

Because the medical reports submitted by appellant do not address how the October 14, 2015 incident at work caused or aggravated the medical condition, these reports are of limited probative value[14] and are insufficient to establish that the October 14, 2015, employment incident caused or aggravated a specific injury.

The Board notes that the employing establishment issued an authorization for medical treatment (Form CA-16) on October 19, 2015. Where an employing establishment properly executes a Form CA-1, which authorizes medical treatment as a result an employee's claim for an employment-related injury, the Form CA-16 creates a contractual obligation, which does not involve the employee directly, to pay for the cost of the examination or treatment regardless of the action taken on the claim.[15] The period for which treatment is authorized by a Form CA-16 is limited to 60 days from the date of issuance, unless terminated earlier by OWCP.[16] In this case, it is unclear whether OWCP paid for the cost of appellant's examinations. On return of the case record, OWCP should further address the issue.[17]

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.

[11] *Calvin E. King*, 51 ECAB 394 (2000).

[12] *See supra* note 10.

[13] *K.W.*, Docket No. 16-0838 (issued July 25, 2016).

[14] *See T.V.*, Docket No. 16-0656 (issued July 27, 2016).

[15] *A.B.*, Docket No. 15-1002 (issued August 14, 2015); *Tracey P. Spillane*, 54 ECAB 608 (2003).

[16] 20 C.F.R. § 10.300(c).

[17] *Supra* note 14.

CONCLUSION

The Board finds that appellant did not meet his burden of proof to establish a traumatic injury causally related to an October 14, 2015 employment incident.

ORDER

IT IS HEREBY ORDERED THAT the December 4, 2015 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: September 2, 2016
Washington, DC

Christopher J. Godfrey, 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