

Federal Employees' Compensation Act² (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.³

ISSUE

The issue is whether appellant has met her burden of proof to establish a medical condition causally related to the accepted January 29, 2020 employment incident.

FACTUAL HISTORY

On January 30, 2020 appellant, then a 49-year-old nursing assistant, filed a traumatic injury claim (Form CA-1) alleging that on January 29, 2020 she injured her shoulder blades, neck, and right arm when she was hit by an elevator door when attempting to board an elevator while in the performance of duty. She noted that, following the incident, she experienced soreness between her shoulder blades, a stiff neck and soreness from the top of her right arm to her elbow. Appellant did not stop work.

OWCP received physical therapy reports dated March 4 to April 29, 2020 detailing appellant's treatment for diagnoses of a lumbar strain, a contusion of the left hip, trigeminal neuralgia of the right side of the face and a strain of the left shoulder.

In medical reports dated January 31 to May 1, 2020, Dr. Raja Chakrapani, Board-certified in internal medicine, noted that appellant was hit by elevator doors on January 29, 2020. He related that she experienced pain in her right shoulder, hips and right elbow. Dr. Chakrapani diagnosed a right shoulder sprain, recommended that appellant perform light-duty work, and referred her to physical therapy.

In a May 20, 2020 development letter, OWCP informed appellant of the deficiencies of her claim. It advised her of the type of factual and medical evidence needed and provided a questionnaire for her completion. OWCP afforded appellant 30 days to respond.

In an April 22, 2020 diagnostic report, Dr. Kurian Puthenpurayil, a Board-certified radiologist, performed an x-ray scan of appellant's right shoulder demonstrating degenerative changes, but no acute fracture or malalignment. In a separate diagnostic report of even date, he performed an x-ray scan of her cervical spine, which revealed a reversal of a normal lordosis and no acute fracture.

² 5 U.S.C. § 8101 *et seq.*

³ The Board notes that, following the January 4, 2021 decision, OWCP received additional evidence. 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.*

In medical reports dated from April 17 to June 12, 2020, Dr. Chakrapani noted that appellant was still experiencing pain in her right shoulder and hip and diagnosed a cervical sprain, a right shoulder injury, a neck sprain and a hip injury.

In a June 15, 2020 response to OWCP's development questionnaire, appellant asserted that she was stunned, light headed and unable to respond to questions for a few seconds following the January 29, 2020 incident. She recounted that she eventually got off of the elevator and reported the incident to her assistant manager. Appellant described the incident as the equivalent of being hit by a car. She noted that when she arrived home later on she noticed pain from her right and left scapula up to her neck, as well as right shoulder pain. Appellant indicated that she previously experienced a neck strain two years prior.

By decision dated June 22, 2020, OWCP denied appellant's traumatic injury claim, finding that the medical evidence of record was insufficient to establish causal relationship between her diagnosed medical conditions and the accepted January 29, 2020 employment incident.

OWCP continued to receive evidence. In a March 20, 2020 diagnostic report, Dr. Stuart Silverman, a Board-certified neurologist, performed an electromyography (EMG) scan of appellant's right upper extremity, noting that all of her findings were within normal limits.

Appellant submitted physical therapy reports dated May 4 to June 24, 2020, in which she continued to receive treatment for her diagnosed lumbar strain, contusion of the left hip, strain of the left shoulder and trigeminal neuralgia of the right side of the face.

In a June 26, 2020 medical report, Dr. Chakrapani observed that appellant was still experiencing neck pain and diagnosed a right-sided neck sprain. He recommended that she continue her physical therapy treatment.

On July 21, 2020 appellant requested an oral hearing before a representative of OWCP's Branch of Hearings and Review.

In an April 15, 2020 medical report, Dr. Chakrapani observed that appellant was experiencing right hand swelling, neck pain and a burning sensation in her right upper extremity. He diagnosed a right shoulder injury.

In a July 10, 2020 duty status report (Form CA-17), Dr. Chakrapani diagnosed neck, right shoulder, and hip pain due to the accepted January 29, 2020 employment incident and advised that appellant could work with light-duty work restrictions.

In a July 28, 2020 diagnostic report, Dr. Amitesh Prasad, a Board-certified radiologist, performed a magnetic resonance imaging (MRI) scan of appellant's cervical spine, demonstrating a disc osteophyte complex with disc protrusions most pronounced at C5-C6 and foraminal encroachment at C4-C5 and C5-C6.

In a September 25, 2020 diagnostic report, Dr. Jeffery Towers, a Board-certified diagnostic radiologist, performed an MRI scan of appellant's lumbar spine, revealing multilevel foraminal encroachment.

Appellant submitted physical therapy reports dated July 1 to September 30, 2020 in which she continued to receive treatment for her diagnosed lumbar strain, contusion of the left hip, strain of the left shoulder and trigeminal neuralgia of the right side of the face.

A telephonic hearing was held on October 9, 2020.

In a July 13, 2020 medical report, Dr. Benjamin Smolar, a Board-certified neurologist, recounted the events of the January 29, 2020 employment incident where appellant was hit by an elevator door and subsequently experienced pain in her left shoulder, both sides of her neck and her right arm. On evaluation he diagnosed paresthesias and cervical disc disorder.

In progress notes dated September 21 and 28, 2020, Dr. Patrick Smith, a Board-certified orthopedic surgeon, evaluated appellant for pain and symptoms she was experiencing in her neck, back and right arm after being hit by an elevator in January 2020. He observed that an x-ray and MRI scan of her lumbar spine demonstrated advanced stenosis at L4-L5 with spondylolisthesis. Dr. Smith diagnosed L4-L5 spondylolisthesis and spinal stenosis, cervical pain and ecchymosis. He opined that it seemed as if appellant's conditions were aggravated by the January 29, 2020 employment incident and that her condition was likely causing her symptoms of pain in her lower back and hips.

Appellant submitted additional physical therapy reports dated October 5 to November 30, 2020.

By decision dated January 4, 2021, the hearing representative affirmed OWCP's June 22, 2020 decision.

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,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

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. Fact of injury consists of two components that must be considered in conjunction with one another. The first

⁴ *S.B.*, Docket No. 17-1779 (issued February 7, 2018); *J.P.*, 59 ECAB 178 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

⁵ *L.S.*, Docket No. 19-1769 (issued July 10, 2020); *Jacqueline M. Nixon-Steward*, 52 ECAB 140 (2000).

⁶ *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).

component is whether the employee actually experienced the employment incident that allegedly occurred.⁷ The second component is whether the employment incident caused a personal injury.⁸

Causal relationship is a medical question that requires rationalized medical opinion evidence to resolve the issue.⁹ A physician's opinion on whether there is causal relationship between the diagnosed condition and the implicated employment factor(s) must be based on a complete factual and medical background.¹⁰ 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 factor(s).¹¹

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish a medical condition causally related to the accepted January 29, 2020 employment incident.

Dr. Smith, in his September 21 and 28, 2020 progress notes, evaluated appellant for pain and symptoms she was experiencing in her neck, back, and right arm following the accepted January 29, 2020 employment incident. He reviewed an x-ray and MRI scan of her lumbar spine, which revealed advanced stenosis at L4-L5 with spondylolisthesis and diagnosed L4-L5 spondylolisthesis and spinal stenosis, cervical pain and ecchymosis. Dr. Smith opined that it seemed as if appellant's conditions were aggravated by the January 29, 2020 employment incident where she was hit by closing elevator doors and that her condition was likely causing her symptoms of pain in her lower back and hips. His opinion that it "seemed" as if her conditions were aggravated by the January 29, 2020 employment incident and that it was "likely" causing her symptoms is speculative in nature. The Board has held that medical opinions that are speculative or equivocal are of diminished probative value.¹² Therefore, his September 21 and 28, 2020 reports are insufficient to meet appellant's burden of proof.¹³

In reports dated January 31 to July 10, 2020, Dr. Chakrapani made note of appellant's complaints of pain in her right shoulder, hips, right elbow, neck, right hand swelling and a burning sensation in her right upper extremity following the accepted January 29, 2020 employment incident where she was hit by elevator doors at work. He diagnosed a right shoulder sprain, a

⁷ *B.P.*, Docket No. 16-1549 (issued January 18, 2017); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁸ *M.H.*, Docket No. 18-1737 (issued March 13, 2019); *John J. Carlone*, 41 ECAB 354 (1989).

⁹ *T.H.*, 59 ECAB 388,393 (2008); *Robert G. Morris*, 48 ECAB 238 (1996).

¹⁰ *M.V.*, Docket No. 18-0884 (issued December 28, 2018).

¹¹ *B.C.*, Docket No. 20-0221 (issued July 10, 2020); *Leslie C. Moore*, 52 ECAB 132 (2000).

¹² Federal (FECA) Procedure Manual, Part 2 -- Claims, *Developing and Evaluating Medical Evidence*, Chapter 2.810.5(c)(3); *D.S.*, Docket No. 20-0384 (issued October 8, 2020); *H.A.*, Docket No. 18-1455 (issued August 23, 2019).

¹³ *See C.B.*, Docket No. 20-0464 (issued July 21, 2020).

cervical sprain, a neck sprain, a right shoulder injury and a hip injury. However, Dr. Chakrapani did not offer an opinion on the cause of these conditions. The Board has held that medical evidence that does not offer an opinion regarding the cause of an employment condition is of no probative value on the issue of causal relationship.¹⁴ Consequently, Dr. Chakrapani's medical reports are also insufficient to meet appellant's burden of proof.

Dr. Smolar, in his July 13, 2020 medical report, recounted the events of the January 29, 2020 employment incident where appellant was hit by an elevator door and subsequently experienced pain in her left shoulder, both sides of her neck and her right arm. On evaluation he diagnosed paresthesias and cervical disc disorder, but he failed to address the issue of causal relationship. As noted, medical evidence that does not offer an opinion regarding the cause of an employment condition is of no probative value on the issue of causal relationship.¹⁵ Consequently, Dr. Smolar's July 13, 2020 medical report is also insufficient to establish appellant's claim.

Appellant submitted multiple diagnostic reports dated from March 20 to September 25, 2020 where she underwent multiple x-ray and MRI scans of her right shoulder, and cervical and lumbar spine. The Board has held, however, that diagnostic test reports, standing alone, lack probative value on the issue of causal relationship as they do not address the relationship between accepted employment factors and a diagnosed condition.¹⁶ For this reason, these diagnostic reports are insufficient to meet appellant's burden of proof.

The remaining evidence of record consists of numerous physical therapy reports dated March 4 to November 30, 2020. Certain healthcare providers such as physical therapists, nurses, physician assistants, and social workers are not considered physician[s] as defined under FECA.¹⁷ Consequently, their medical findings and/or opinions will not suffice for purposes of establishing entitlement to FECA benefits.

As appellant has not submitted rationalized medical evidence establishing a medical condition causally related to the accepted January 29, 2020 employment incident, the Board finds that she 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.

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

¹⁵ *Id.*

¹⁶ *W.M.*, Docket No. 19-1853 (issued May 13, 2020); *L.F.*, Docket No. 19-1905 (issued April 10, 2020).

¹⁷ 5 U.S.C. § 8101(2); 20 C.F.R. § 10.5(t); see *M.F.*, Docket No. 17-1973 (issued December 31, 2018); *K.W.*, 59 ECAB 271, 279 (2007); *David P. Sawchuk*, 57 ECAB 316, 320 n.11 (2006). A report from a physician assistant or certified nurse practitioner will be considered medical evidence if countersigned by a qualified physician. Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3a(1) (January 2013).

CONCLUSION

The Board finds that appellant has not met her burden of proof to establish a medical condition causally related to the accepted January 29, 2020 employment incident.

ORDER

IT IS HEREBY ORDERED THAT the January 4, 2021 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: April 5, 2022
Washington, DC

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

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board