

severe sprain or pinched nerve in her low back region. The reverse side of the claim form was completed by a supervisor who indicated that appellant stopped working on August 25, 2014.

Appellant submitted a note from a nurse stating that she was unable to work as of August 25, 2014.

In a September 10, 2014 letter, OWCP requested that appellant submit additional evidence. Appellant was advised that she should have her attending physician submit a narrative medical report which included the physician's opinion, supported by medical explanation, as to how the reported work incident caused or aggravated a medical condition.

In an undated statement received by OWCP on September 23, 2014, appellant described the August 19, 2014 work incident. She stated that she lifted heavy plastic tote packages that a customer had brought, putting them on a scale to be weighed.

On September 16, 2014 Dr. Lisa Keithley, a Board-certified family practitioner, stated that appellant was seen on August 25, 2014 for back pain. She indicated that appellant reported she had lifted heavy totes at work on August 19, 2014. Dr. Keithley stated that appellant was treated with muscle relaxers and was kept off work due to the nature of her job. She noted that appellant was seen on August 27 and September 3, 2014. Dr. Keithley reported that a lumbar x-ray was performed, showing some degenerative changes. According to her, appellant was last seen on September 15, 2014 and had returned to work.

By decision dated October 16, 2014, OWCP denied the claim for compensation. It found the medical evidence was insufficient to establish the claim.

LEGAL PRECEDENT

FECA provides for the payment of compensation for "the disability or death of an employee resulting from personal injury sustained while in the performance of duty."² The phrase "sustained while in the performance of duty" in FECA is regarded as the equivalent of the commonly found requisite in workers' compensation law of "arising out of and in the course of employment."³ An employee seeking benefits under FECA has the burden of establishing that he or she sustained an injury while in the performance of duty.⁴ In order to determine whether an employee actually sustained an injury in the performance of duty, OWCP begins with an analysis of whether "fact of injury" has been established. Generally "fact of injury" consists of two components which must be considered in conjunction with one another. The first component to be established is that the employee actually experienced the employment incident which is alleged to have occurred. The second component is whether the employment incident caused a personal injury and generally this can be established only by medical evidence.⁵

² 5 U.S.C. § 8102(a).

³ *Valerie C. Boward*, 50 ECAB 126 (1998).

⁴ *Melinda C. Epperly*, 45 ECAB 196, 198 (1993); *see also* 20 C.F.R. § 10.115.

⁵ *See John J. Carlone*, 41 ECAB 354, 357 (1989).

OWCP procedures recognize that a claim may be accepted without a medical report when the condition is a minor one which can be identified on visual inspection.⁶ In clear-cut traumatic injury claims, such as a fall resulting in a broken arm, a physician's affirmative statement is sufficient and no rationalized opinion on causal relationship is needed. In all other traumatic injury claims, a rationalized medical opinion supporting causal relationship is required.⁷

Rationalized medical opinion evidence is medical evidence that is based on a complete factual and medical background, of reasonable medical certainty and supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant. The weight of medical evidence is determined by its reliability, its probative value, its convincing quality, the care of the analysis manifested and the medical rationale expressed in support of the physician's opinion.⁸

ANALYSIS

In the present case, appellant has alleged an injury in the performance of duty on August 19, 2014 when she lifted and carried some plastic tote parcels. OWCP has accepted that an employment incident occurred as alleged. The question is whether appellant has submitted sufficient medical evidence to establish a diagnosed condition casually related to the employment incident.

The Board finds that the medical evidence is insufficient to establish the claim for compensation. It is well established that medical evidence must be from a physician under FECA,⁹ and a nurse is not considered a physician.¹⁰ The only medical report from a physician in the record is the September 16, 2014 report from Dr. Keithley who stated that appellant was seen on August 25, 2014, and briefly noted appellant reported lifting heavy totes at work, without providing a medical history or results on examination. The only diagnosis was a general reference to degenerative back changes noted on an undated x-ray. Dr. Keithley did not offer an opinion relating any diagnosed condition to the employment incident. As such this report is of limited probative value to the issue presented.

On appeal, appellant states that she reported her injury, received medical attention, and provided witness statements. As noted above, OWCP accepted an employment incident occurred as alleged. The issue is whether the medical evidence is sufficient to establish the claim. Appellant states that the medical evidence confirmed an injury. But to establish a claim for compensation requires more than receiving medical treatment and reporting a work incident to a physician. A probative medical report should include a proper background, findings on examination, a diagnosis and a reasoned opinion on causal relationship between the diagnosed

⁶ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3(c) (January 2013).

⁷ *Id.* at Chapter 2.805.3(d) (January 2013).

⁸ *Jennifer Atkerson*, 55 ECAB 317, 319 (2004).

⁹ *See* 5 U.S.C. § 8101(2).

¹⁰ *See Vincent Holmes*, 53 ECAB 468 (2002).

condition and the employment incident.¹¹ For the reasons noted, appellant did not meet her burden of proof in this case.

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 did not meet her burden of proof to establish an injury in the performance of duty on August 19, 2014.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated October 16, 2014 is affirmed.

Issued: March 3, 2015
Washington, DC

Christopher J. Godfrey, Chief Judge
Employees' Compensation Appeals Board

Patricia Howard Fitzgerald, Judge
Employees' Compensation Appeals Board

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

¹¹ See, e.g., *J.K.*, Docket No. 14-1146 (issued November 25, 2014).