United States Department of Labor
Employees' Compensation Appeals Board

M.R., Appellant	)	
and	)	**Docket No. 17-1619**
	)	**Issued: January 25, 2018**
U.S. POSTAL SERVICE, PROCESSING & DISTRIBUTION CENTER, White Plains, NY, 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
ALEC J. KOROMILAS, Alternate Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On July 21, 2017 appellant filed a timely appeal from a June 20, 2017 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 the claim.[2]

ISSUE

The issue is whether appellant has met her burden of proof to establish an injury causally related to the accepted January 17, 2017 employment incident.

[1] 5 U.S.C. § 8101 *et seq.*

[2] The record provided the Board includes evidence received after OWCP issued its June 20, 2017 decision. 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. 20 C.F.R. § 501.2(c)(1). Therefore, the Board is precluded from reviewing evidence not before OWCP at the time of the June 20, 2017 decision for the first time on appeal. *Id.*

FACTUAL HISTORY

On February 4, 2017 appellant, then a 37-year-old postal support employee clerk, filed a traumatic injury claim (Form CA-1) alleging that she sprained/pulled her back muscle "dropping" mail while in the performance of duty on January 17, 2017. She stopped work on January 18, 2017 and sought medical attention. Appellant returned to work on January 19, 2017.

Evidence submitted with the claim included a position description, pay rate information, and multiple requests for authorization of medical treatment.

In a January 17, 2017 work excuse note, Dr. Eric Gayle, a family practitioner, indicated that he had been treating appellant for acute lumbago. He excused appellant from work from January 17 to 19, 2017.

In February 27, March 27, and April 12, 2017 reports, Dr. Elizabeth Matthew, a Board-certified physiatrist, provided an assessment of low back pain. She noted that on January 17, 2017 appellant was dropping mail and felt that she had pulled a muscle. Appellant went to her primary care provider and was given a pain killer and a muscle relaxant. She returned to her primary care physician on February 8, 2017 and refilled her prescriptions. Appellant was on light duty for two weeks before stopping work altogether due to pain. In her February 27, 2017 initial report, Dr. Matthew referred appellant to physical therapy. Copies of physical therapy reports dated March 1 to April 13, 2017, which Dr. Matthew signed, contained a diagnosis of simple low back pain.

In a March 23, 2017 duty status report (Form CA-17) and attending physician's report (Form CA-20), Dr. Matthew noted the history of the alleged January 17, 2017 work injury and diagnosed low back pain. She indicated that appellant was totally disabled from January 17 to March 22, 2017, and could perform full-time limited-duty work as of March 23, 2017.

In a May 3, 2017 development letter, OWCP advised appellant of the deficiencies in the claim and afforded her 30 days to submit additional evidence. Appellant was asked to submit additional factual and medical evidence, including her responses to a questionnaire. She did not respond to the questionnaire.

In a May 15, 2017 narrative report and duty status report (Form CA-17), Dr. Matthew diagnosed low back pain. In a May 25, 2017 letter, she noted the history of the alleged January 17, 2017 work injury and appellant's medical course. Dr. Matthew indicated that the injury appellant incurred during lifting heavy objects caused the muscles around her low back to be stretched, resulting in partial tears in the muscle fibers. She advised that the diagnosis of low back pain was a chronic condition which would heal over time. In a May 25, 2017 attending physician's report (Form CA-20), Dr. Matthew diagnosed low back pain.

By decision dated June 20, 2017, OWCP denied appellant's claim. It found that, while she did not respond to its development questionnaire, the evidence supported that the claimed event occurred as alleged. However, the medical component of fact of injury had not been met as the medical evidence submitted did not contain a diagnosis in connection with the

employment incident. Therefore, appellant failed to establish that she sustained an injury as defined by FECA.

LEGAL PRECEDENT

A claimant seeking benefits under FECA[3] has the burden of proof to establish the essential elements of his or her claim by the weight of the reliable, probative, and substantial evidence, including that an injury was sustained in the performance of duty as alleged and that any specific condition or disability claimed is causally related to the employment injury.[4]

To determine if an employee sustained a traumatic 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 that must be considered in conjunction with one another. The first component is whether the employee actually experienced the employment incident that allegedly occurred.[5] The second component is whether the employment incident caused a personal injury.[6] An employee may establish that an injury occurred in the performance of duty as alleged, but fail to establish that the disability or specific condition for which compensation is being claimed is causally related to the injury.[7]

ANALYSIS

OWCP accepted the incident of appellant dropping mail in the performance of duty on January 17, 2017. However, it denied her claim because she had not submitted sufficient medical evidence which contained a medical diagnosis in connection with the claimed January 17, 2017 injury. The Board finds that appellant has not met her burden of proof to establish an injury causally related to the accepted January 17, 2017 employment incident.

Dr. Gayle indicated that he treated appellant for acute lumbago and held her off work from January 17 to 19, 2017. Dr. Matthew noted the history of the January 17, 2017 event and provided a diagnosis of low back pain in all her reports. However, low back pain (lumbago) is a

[3] *See supra* note 1.

[4] 20 C.F.R. § 10.115(e), (f); *see Jacquelyn L. Oliver*, 48 ECAB 232, 235-36 (1996).

[5] *Elaine Pendleton*, 40 ECAB 1143 (1989).

[6] *John J. Carlone*, 41 ECAB 354 (1989). Findings of pain or discomfort alone do not satisfy the medical aspect of the fact of injury medical determination. Federal (FECA) Procedure Manual, Part 2 -- Claims, *Fact of Injury*, Chapter 2.803.4a(6) (August 2012).

[7] *Shirley A. Temple*, 48 ECAB 404, 407 (1997). Causal relationship is a medical question that generally requires rationalized medical opinion evidence to resolve the issue. *Robert G. Morris*, 48 ECAB 238 (1996). A physician's opinion on whether there is a causal relationship between the diagnosed condition and the implicated employment factor(s) must be based on a complete factual and medical background. *Victor J. Woodhams*, 41 ECAB 345, 352 (1989). 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). *Id.*

description of a symptom rather than a clear diagnosis of a medical condition.[8] Therefore, the Board finds that the reports from Dr. Gayle and Dr. Matthew are insufficient to establish the medical component of the fact-of-injury inquiry.[9] As such, appellant has failed to meet 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.

CONCLUSION

The Board finds that appellant has not met her burden of proof to establish an injury causally related to the accepted January 17, 2017 employment incident.

ORDER

IT IS HEREBY ORDERED THAT the June 20, 2017 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: January 25, 2018
Washington, DC

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

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

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

[8] The Board has consistently held that pain is a symptom, rather than a compensable medical diagnosis. *See P.S.*, Docket No. 12-1601 (issued January 2, 2013); *C.F.*, Docket No. 08-1102 (issued October 10, 2008).

[9] *See supra* note 6.