



## **FACTUAL HISTORY**

On December 13, 2018 appellant, a 50-year-old letter carrier, filed a traumatic injury claim (Form CA-1) alleging that she injured her lower back on November 20, 2018 walking up a driveway with a package while in the performance of duty. She explained that she had removed the package from the back of her vehicle and, as she started walking up the driveway with the package, she felt shooting pain in her back and could barely walk. On the reverse side of the claim form the employing establishment indicated that appellant stopped work on November 20, 2018 and received medical treatment that same day.

A November 20, 2018 workers' compensation visit summary indicated that Dr. Alan J. Vanderweele, a family practitioner, saw appellant for complaints of low back pain. Appellant was reportedly injured that same day. Dr. Vanderweele diagnosed low back pain and placed her on light duty with a 20-pound lifting restriction, and no stooping/bending. He noted that appellant could resume full-duty work on November 27, 2018.

A December 6, 2018 duty status report (Form CA-17), signed by an unknown healthcare provider, noted employment-related left lumbar spasm and tenderness, and advised that appellant was disabled for work. The Form CA-17 noted a November 20, 2018 history of injury due to lifting a 30-pound package at work.

In a December 20, 2018 development letter, OWCP notified appellant of the type of evidence needed to establish her traumatic injury claim. It requested that she provide a narrative report from her attending physician, which included a diagnosis and an explanation as to how the reported work incident either caused or aggravated a medical condition. OWCP afforded appellant 30 days to submit the requested information.

In an office visit summary dated November 23, 2018, Dr. Mark E. Skees, a Board-certified family practitioner, noted that appellant had an acute onset of lower back pain that occurred on November 20, 2018 while at work delivering a 30-pound package. Appellant was initially seen at an urgent care facility on the date of her injury. Dr. Skees noted that, since then, appellant had persistent pain radiating up the left side of her back and tingling down her left leg. Although there was no weakness in her left leg, appellant had trouble walking due to her lower back pain. The pain worsened with walking, bending, or lifting, and was alleviated with heat, sitting, or laying down. Dr. Skees diagnosed left lumbar strain/spasm with no evidence of disc disease at present. He referred appellant to physical therapy. Dr. Skees also excused her from work.

Appellant followed up with Dr. Skees on December 13, 2018 and January 7, 2019. The follow-up treatment notes indicated that she had been participating in physical therapy and her lower back pain had improved. Appellant no longer experienced pain into her legs, but there was some shooting pain into her buttocks. Her latest clinical assessment was status post lower back injury at work, lumbar spasm, and left lumbar radiculopathy. Dr. Skees ordered lumbar x-rays and a magnetic resonance imaging scan, and advised that appellant should remain off work.

By decision dated January 23, 2019, OWCP denied appellant's traumatic injury claim. While it accepted that the November 20, 2018 employment incident occurred, as alleged, it found that no valid diagnosis had been produced in connection with the injury. Thus, appellant had not met the requirements for establishing an injury as defined by FECA.

## LEGAL PRECEDENT

An employee seeking benefits under FECA<sup>3</sup> has the burden of establishing 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 of FECA,<sup>4</sup> 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.<sup>5</sup> These are the essential elements of each and every claim, regardless of whether it is predicated upon a traumatic injury or an occupational disease.<sup>6</sup>

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.<sup>7</sup> 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.<sup>8</sup> The second component is whether the employment incident caused a personal injury.<sup>9</sup> 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.<sup>10</sup>

Causal relationship is a medical question that requires rationalized medical opinion evidence to resolve the issue.<sup>11</sup> 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.<sup>12</sup> 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).<sup>13</sup>

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<sup>3</sup> *Supra* note 1.

<sup>4</sup> *J.P.*, Docket No. 19-0129 (issued April 26, 2019); *S.B.*, Docket No. 17-1779 (issued February 7, 2018); *Joe D. Cameron*, 41 ECAB 153 (1989).

<sup>5</sup> *J.M.*, Docket No. 17-0284 (issued February 7, 2018); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

<sup>6</sup> *G.D.*, Docket No. 19-0256 (issued May 20, 2019); *L.M.*, Docket No. 13-1402 (issued February 7, 2014); *Delores C. Ellyett*, 41 ECAB 992 (1990).

<sup>7</sup> *E.M.*, Docket No. 18-1599 (issued March 7, 2019); *T.H.*, 59 ECAB 388, 393-94 (2008).

<sup>8</sup> *L.T.*, Docket No. 18-1603 (issued February 21, 2019); *Elaine Pendleton*, 40 ECAB 1143 (1989).

<sup>9</sup> *B.M.*, Docket No. 17-0796 (issued July 5, 2018); *John J. Carlone*, 41 ECAB 354 (1989).

<sup>10</sup> *J.P.*, *supra* note 4; *L.T.*, *supra* note 8; *Shirley A. Temple*, 48 ECAB 404, 407 (1997).

<sup>11</sup> *E.M.*, *supra* note 7; *Robert G. Morris*, 48 ECAB 238 (1996).

<sup>12</sup> *M.V.*, Docket No. 18-0884 (issued December 28, 2018); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

<sup>13</sup> *Id.*

### ANALYSIS

The Board finds that this case is not in posture for decision.

OWCP denied appellant's traumatic injury claim because the record purportedly did not contain a medical diagnosis in connection with the accepted employment incident, noting that "pain" was not a diagnosis. However, the Board finds that the evidence of record establishes that Dr. Skees' November 23, 2018 report diagnosed left lumbar sprain.<sup>14</sup> Accordingly, the Board finds that appellant has established the medical component of fact of injury. The case shall be remanded for OWCP to address whether appellant's lumbar condition is causally related to the accepted November 20, 2018 employment incident. On remand, following any further development as deemed necessary, OWCP shall issue a *de novo* decision.

### CONCLUSION

The Board finds the case not in posture for decision.

### ORDER

**IT IS HEREBY ORDERED THAT** the January 23, 2019 decision of the Office of Workers' Compensation Programs is set aside, and the case is remanded for further action consistent with this decision.

Issued: August 19, 2019  
Washington, DC

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

Janice B. Askin, Judge  
Employees' Compensation Appeals Board

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

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<sup>14</sup> *F.P.*, Docket No. 19-0159 (issued May 7, 2019); *T.J.*, Docket No. 16-0325 (issued June 22, 2016).