United States Department of Labor
Employees' Compensation Appeals Board

A.O., Appellant	)	
and	)	**Docket No. 20-0038**
	)	**Issued: August 26, 2020**
U.S. POSTAL SERVICE, PROCESSING & DISTRIBUTION CENTER, Pensacola, FL, Employer	)	

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

Case Submitted on the Record[1]

DECISION AND ORDER

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

JURISDICTION

On September 27, 2019 appellant filed a timely appeal from an August 29, 2019 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act[2] (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.[3]

[1] Appellant timely requested oral argument before the Board. 20 C.F.R. § 501.5(b). By order dated August 21, 2020, the Board exercised its discretion and denied the request, finding that the arguments on appeal could adequately be addressed based on the case record. *Order Denying Request for Oral Argument*, Docket No. 20-0038 (issued August 21, 2020). The Board's *Rules of Procedure* provide that an appeal in which a request for oral argument is denied by the Board will proceed to a decision based on the case record and the pleadings submitted. 20 C.F.R. § 501.5(b).

[2] 5 U.S.C. § 8101 *et seq.*

[3] The Board notes that, following the August 29, 2019 decision, OWCP received additional evidence. However, 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.*

ISSUE

The issue is whether appellant has met her burden of proof to establish a right shoulder condition causally related to the accepted July 19, 2019 employment incident.

FACTUAL HISTORY

On July 20, 2019 appellant, then a 60-year-old mail processing clerk, filed a traumatic injury claim (Form CA-1) alleging that on July 19, 2019 she sustained a right shoulder sprain after a coworker punched her in the shoulder while in the performance of duty. On the reverse side of the claim form the employing establishment noted that appellant was injured in the performance of duty, but that it was unclear whether she was punched or was lightly tapped due to conflicting statements from appellant and the witness. It indicated that she stopped work on July 21, 2019.

In a July 19, 2019 statement, appellant reported that R.L. punched her in the right shoulder. She reported previously having surgery on both shoulders.

The employing establishment properly executed an authorization for examination and/or treatment (Form CA-16) on July 20, 2019. The Form CA-16 noted appellant's history of injury on July 19, 2019 and described her injury as a right shoulder sprain.

In a July 21, 2019 emergency room report, Dr. Delvon I. Ferguson, an osteopath specializing in emergency medicine, diagnosed shoulder sprain. He prescribed medication and discharged appellant with instructions for care of a shoulder sprain.

In a July 21, 2019 return-to-work slip, an unidentified health care provider diagnosed lumbosacral radiculopathy at S1, lumbar disc herniation, and elevated blood and returned appellant to work on July 23, 2019.

The employing establishment challenged appellant's claim in a letter dated July 22, 2019, asserting that she had not established causal relationship and there were conflicting witness statements as to whether the contact between appellant and R.L. was a punch or a light tap. In a statement dated July 19, 2019, R.L. noted that on July 19, 2019 he lightly tapped appellant's right shoulder to greet her. A statement from J.N. dated July 19, 2019 indicated that R.L. tapped appellant lightly on the shoulder as a greeting. A July 20, 2019 witness statement from N.D. noted that appellant was speaking with several clerks at the time of the incident and stated that R.L. only tapped her on the shoulder. She further noted that appellant was toting two bags and waiving her arms in the air.

In a July 26, 2019 development letter, OWCP informed appellant of the deficiencies of her claim. It advised her of the type of factual and medical evidence needed to establish her claim, including a physician's report explaining a causal relationship between appellant's claimed condition and the employment incident. OWCP afforded appellant 30 days to submit the requested evidence. No further evidence was received.

By decision dated August 29, 2019, OWCP denied the claim finding that the July 19, 2019 employment incident of being punched in the shoulder occurred, as alleged, but that the medical evidence submitted was insufficient to establish causal relationship between her diagnosed condition and the accepted July 19, 2019 employment incident.

LEGAL PRECEDENT

An employee seeking benefits under FECA[4] has the burden of proof to establish the essential elements of his or her claim, including 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,[5] 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.[6] 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.[7]

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it first must be determined whether fact of injury has been established. There are two components involved in establishing fact of injury. First, the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time, place, and in the manner alleged. The second component is whether the employment incident caused a personal injury and can be established only by medical evidence.[8]

The medical evidence required to establish a causal relationship between a claimed specific condition and an employment incident is rationalized medical opinion evidence.[9] The opinion of the physician must be based on a complete factual and medical background of the employee, 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 specific employment factors identified by the employee.[10]

In any case where a preexisting condition involving the same part of the body is present and the issue of causal relationship, therefore, involves aggravation, acceleration, or precipitation, the physician must provide a rationalized medical opinion that differentiates between the effects of the work-related injury or disease and the preexisting condition.[11]

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[4] *Id.*

[5] *F.H.*, Docket No. 18-0869 (issued January 29, 2020); *J.P.*, Docket No. 19-0129 (issued April 26, 2019); *Joe D. Cameron*, 41 ECAB 153 (1989).

[6] *L.C.*, Docket No. 19-1301 (issued January 29, 2020); *J.H.*, Docket No. 18-1637 (issued January 29, 2020); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

[7] *P.A.*, Docket No. 18-0559 (issued January 29, 2020); *K.M.*, Docket No. 15-1660 (issued September 16, 2016); *Delores C. Ellyett*, 41 ECAB 992 (1990).

[8] *T.H.*, Docket No. 19-0599 (issued January 28, 2020); *K.L.*, Docket No. 18-1029 (issued January 9, 2019); *John J. Carlone*, 41 ECAB 354 (1989).

[9] *S.S.*, Docket No. 19-0688 (issued January 24, 2020); *A.M.*, Docket No. 18-1748 (issued April 24, 2019); *Robert G. Morris*, 48 ECAB 238 (1996).

[10] *T.L.*, Docket No. 18-0778 (issued January 22, 2020); *Y.S.*, Docket No. 18-0366 (issued January 22, 2020); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

[11] Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3e (January 2013). *See R.D.*, Docket No. 18-1551 (issued March 1, 2019).

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish a right shoulder condition causally related to the accepted July 19, 2019 employment incident.

In support of her claim, appellant submitted a July 21, 2019 emergency treatment report from Dr. Ferguson who diagnosed shoulder sprain. Dr. Ferguson, however, failed to address causation. The Board has held that medical evidence that does not offer an opinion regarding the cause of an employee's condition is of no probative value on the issue of causal relationship.[12] Consequently, this report will not suffice for purposes of establishing entitlement to FECA benefits.

Appellant also submitted a return-to-work slip containing an illegible signature which addressed appellant's disability from employment. The Board has held that reports that are unsigned or bear an illegible signature lack proper identification and cannot be considered probative medical evidence as the author cannot be identified as a physician.[13] Therefore, this report is also insufficient to establish the claim.

The Board finds that appellant has not submitted sufficient medical evidence to establish an injury causally related to the accepted July 19, 2019 employment incident and, thus, has not to met her burden of proof to establish her claim.[14]

On appeal appellant asserts that her manager did not properly complete paperwork for her claim and witnesses lied. The Board notes that OWCP has accepted that the July 19, 2019 employment incident of being punched in the shoulder occurred as alleged. However, OWCP denied appellant's claim because she did not submit sufficient medical evidence to establish an injury causally related to the accepted July 19, 2019 employment incident. This is a medical issue and must be addressed by rationalized medical evidence from appellant's treating physician. As the record is devoid of such evidence, appellant 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.

CONCLUSION

The Board finds that appellant has not met her burden of proof to establish a right shoulder condition causally related to a July 19, 2019 employment incident.

[12] *See R.C.*, Docket No. 19-0376 (issued July 15, 2019)*; L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

[13] *M.A.*, Docket No. 19-1551 (issued April 30, 2020).

[14] *S.H.*, Docket No. 19-1897 (issued April 21, 2020); *C.T.*, Docket No. 20-0020 (issued April 29, 2020).

ORDER

IT IS HEREBY ORDERED THAT the August 29, 2019 decision of the Office of Workers' Compensation Programs is affirmed.[15]

Issued: August 26, 2020
Washington, DC

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

Patricia H. Fitzgerald, Alternate Judge
Employees' Compensation Appeals Board

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

[15] The Board notes that the employing establishment issued a Form CA-16. A completed Form CA-16 authorization may constitute a contract for payment of medical expenses to a medical facility or physician, when properly executed. The form 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. *See* 20 C.F.R. § 10.300(c); *J.G.*, Docket No. 17-1062 (issued February 13, 2018); *Tracy P. Spillane*, 54 ECAB 608 (2003).