United States Department of Labor
Employees' Compensation Appeals Board

S.J., Appellant	)	
and	)	**Docket No. 20-0157**
	)	**Issued: April 1, 2020**
U.S. POSTAL SERVICE, PROCESSING & DISTRIBUTION CENTER, Brooklyn, NY, Employer	)	

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

Case Submitted on the Record

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Chief Judge
CHRISTOPHER J. GODFREY, Deputy Chief Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On October 24, 2019 appellant filed a timely appeal from a May 13, 2019 merit decision of the Office of Workers' Compensation Programs (OWCP).[1] 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 pursuant to section 501.5(b) of the Board's *Rules of Procedure*. 20 C.F.R. § 501.5(b). By order dated March 25, 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. 20-0157 (issued March 25, 2020).

[2] 5 U.S.C. § 8101 *et seq*.

[3] The Board notes that, following the May 13, 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 his burden of proof to establish a right hip sprain causally related to the accepted September 30, 2018 employment incident.

FACTUAL HISTORY

On October 10, 2018 appellant, then a 26-year-old mail handler, filed a traumatic injury claim (Form CA-1) alleging that on September 30, 2018 he sustained abdominal pain in the groin region after moving a postal container (post-con), filled with parcels, outsides, sacks, and trays convoy, while in the performance of duty. He stopped work on September 30, 2018. The employing establishment acknowledged on the claim form that appellant was in the performance of duty at the time of the alleged injury.

In a September 30, 2018 statement to the employing establishment, appellant advised that on the date of the claimed injury he had felt a strain in his lower stomach after positioning a post-con.

The record contains a September 30, 2018 authorization for examination and/or treatment (Form CA-16) completed by the employing establishment.

On September 30, 2018 a physician assistant indicated that appellant had received treatment on that date at the emergency department. He advised that he should not perform heavy lifting or pushing. In a duty status report (Form CA 17) dated September 30, 2018, the physician assistant diagnosed a reducible hernia and opined that appellant could perform modified duty with no heavy lifting or pushing.

In a development letter dated October 30, 2018, OWCP informed appellant that when it had received his claim it appeared that his injury was minor and had resulted in minimal or no lost time from work. It had administratively approved the claim to allow payment for a limited amount of medical expenses without formally adjudicating the merits of the claim. OWCP advised that as appellant had not returned to full-time work, it would formally adjudicate his claim. It requested that he submit factual and medical evidence, including a comprehensive report from a physician addressing the relationship between a diagnosed condition and the employment incident. OWCP afforded appellant 30 days to submit the necessary evidence.

Thereafter, appellant submitted an October 19, 2018 note from Dr. Shahid Mian, a Board-certified orthopedic surgeon, who indicated that he had evaluated appellant for a September 30, 2018 injury for which appellant was to remain off work.

OWCP also received an October 29, 2018 report from a physical therapist.

In a November 2, 2018 Form CA-17 report, a physician specializing in orthopedics diagnosed a strain of the right hip and groin[4] and advised that appellant could resume work without restrictions.

On November 3, 2018 appellant returned to his usual employment.

By decision dated December 11, 2018, OWCP denied appellant's traumatic injury claim finding that he had established that the September 30, 2018 employment incident occurred as alleged and had submitted a report from a physician identifying a diagnosed condition. It determined, however, that the medical evidence then of record was insufficient to establish causal relationship between a diagnosed condition and the accepted employment incident.

On December 26, 2018 appellant requested an oral hearing before a representative of OWCP's Branch of Hearings and Review.

In a report dated January 8, 2019, Dr. Mian noted that on September 30, 2018 appellant had experienced pain in his right hip "after lifting" a post-con at work that weighed approximately 200 pounds. He advised that the September 30, 2018 heavy lifting event resulted in his right hip sprain.

A hearing was held on April 8, 2019. Appellant described his claimed employment injury, noting that it had occurred when he was pushing post-cons that were filled with mail. OWCP's hearing representative noted that Dr. Mian's medical report indicated that he had lifted the post-con and requested that he provide a report clarifying the mechanism of injury.

OWCP received a document which provided a picture and written description of a post-con.

By decision dated May 13, 2019, OWCP's hearing representative affirmed the December 11, 2018 decision.

LEGAL PRECEDENT

An employee seeking benefits under FECA[5] 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 filed within the applicable time limitation of FECA,[6] that an injury was sustained while in the performance of duty as alleged, and that any disability or specific condition for which compensation is claimed is causally related to

[4] The signature of the physician is illegible.

[5] *Supra* note 1.

[6] *S.C.*, Docket No. 18-1242 (issued March 13, 2019); *J.P.*, 59 ECAB 178 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

the employment injury.[7] These are the essential elements of each and every compensation claim regardless of whether the claim is predicated on a traumatic injury or an occupational disease.[8]

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.[9] 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.[10] The second component is whether employment incident caused a personal injury.[11]

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence. The opinion of the physician must be based on a complete factual and medical background of the claimant, 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 the specific employment incident.[12]

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish an injury causally related to the accepted September 30, 2018 employment incident.

Dr. Mian indicated in his October 19, 2018 note that he had evaluated appellant following his claimed September 30, 2018 injury. While he indicated that appellant was disabled from work, he did not provide a history of injury, diagnosis, or opinion regarding causal relationship. The Board has held that a medical opinion should reflect a correct history and offer a medically sound explanation by the physician of how the specific employment incident caused or aggravated the diagnosed conditions.[13] Lacking these elements, these reports are insufficient to establish appellant's claim.[14]

On January 8, 2019 Dr. Mian obtained a history of appellant experiencing right hip pain on September 30, 2018 "after lifting" a post-con weighing around 200 pounds. He diagnosed right hip sprain due to heavy lifting on September 30, 2018. Appellant, however, attributed his condition to pulling rather than lifting a heavy container. The Board has held that medical opinions

[7] *T.H.*, Docket No. 18-1736 (issued March 13, 2019); *R.C.*, 59 ECAB 427 (2008).

[8] *T.E.*, Docket No. 18-1595 (issued March 13, 2019); *Delores C. Ellyett*, 41 ECAB 992 (1990).

[9] *S.S.*, Docket No. 18-1488 (issued March 11, 2019); *T.H.*, 59 ECAB 388 (2008).

[10] *E.M.*, Docket No. 18-1599 (issued March 7, 2019); *Bonnie A. Contreras*, 57 ECAB 364 (2006).

[11] *Id*.

[12] *See S.S.*, *supra* note 9; *H.B.*, Docket No. 18-0781 (issued September 5, 2018).

[13] *T.M.*, Docket No. 19-1283 (issued December 2, 2019).

[14] *Id.*; *T.G.*, Docket No. 19-1441 (issued January 28, 2020).

based on an incomplete or inaccurate history are of limited probative value.[15] Further, Dr. Mian failed to provide rationale for his conclusion. A physician must provide a narrative description of the identified employment incident and a reasoned opinion on whether the described incident caused or contributed to a diagnosed medical condition.[16]

A physician assistant evaluated appellant on September 30, 2018 and completed a Form CA-17 report. On October 29, 2018 a physical therapist provided a report. The Board has held that medical reports signed solely by a physical therapist or physician assistant are of no probative value as such health care providers are not considered "physician[s]" as defined under FECA.[17] Consequently, this evidence is insufficient to establish appellant's claim.[18]

OWCP also received a November 2, 2018 Form CA-17 report bearing an illegible signature. A report that is unsigned or bears an illegible signature lacks proper identification and cannot be considered probative medical evidence as the author cannot be identified as a physician.[19]

OWCP also received a document which included a picture and description of a post-con. The Board has explained that excerpts from publications, which provide a picture of the equipment alleged to have caused injury, are of little evidentiary value in establishing the necessary causal relationship between a claimed condition and employment incident because such materials are of general application and are not determinative of whether the specifically claimed condition is related to the particular employment incident alleged by the employee.[20]

On appeal appellant asserts that he submitted all of the paperwork necessary to establish his claim. However, as he has not submitted rationalized medical evidence establishing that his right hip sprain was causally related to the accepted September 30, 2018 employment incident, the Board finds that he has not met his burden of proof.[21]

[15] *G.E.*, Docket No. 19-1190 (issued November 26, 2019); *T.O.*, Docket No. 17-0093 (issued March 22, 2018).

[16] *K.B.*, Docket No. 19-0398 (issued December 18, 2019).

[17] 5 U.S.C. § 8102(2) of FECA provides that the term "physician" includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, and osteopathic practitioners within the scope of their practice as defined by State law. The report from a physician assistant, has no probative medical value on the issue of causal relationship as physician assistants are not considered physicians as defined under FECA. *B.K.*, Docket No. 19-0829 (issued September 25, 2019); *S.J.*, Docket No. 19-0693 (issued August 23, 2019) (physical therapists are not physicians under FECA); *K.W.*, 59 ECAB 271, 279 (2007); *David P. Sawchuk*, 57 ECAB 316, 320 n.11 (2006).

[18] *N.B.*, Docket No. 19-0221 (issued July 15, 2019).

[19] *I.M.*, Docket No. 19-1038 (issued January 23, 2020); *K.C.*, Docket No. 18-1330 (issued March 11, 2019).

[20] *P.J.*, Docket No. 18-1738 (issued May 17, 2019); *Edward Chow*, Docket 96-1498 (issued June 24, 1998); *Dominic E. Coppo*, 44 ECAB 484 (1993).

[21] *See K.K.*, Docket No. 19-1193 (issued October 21, 2019).

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.[22]

CONCLUSION

The Board finds that appellant has not met his burden of proof to establish a right hip sprain causally related to the accepted September 30, 2018 employment incident.

ORDER

IT IS HEREBY ORDERED THAT the May 13, 2019 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: April 1, 2020
Washington, DC

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

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

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

[22] The case record contains a form for authorization for examination and/or treatment (Form CA-16) executed by the employing establishment on September 30, 2018. The Board notes that where an employing establishment properly executes a Form CA-16 which authorizes medical treatment as a result of an employee's claim for a work-related injury, the Form CA-16 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 C.C.*, Docket No. 18-1453 (issued January 28, 2020); *Tracy P. Spillane*, 54 ECAB 608 (2003). The period for which treatment is authorized by a Form CA-16 is limited to 60 days from the date of issuance, unless terminated earlier by OWCP. *See* 20 C.F.R. § 110.300(c).