



spasms and sharp pain when restacking cases of water while in the performance of duty. He stopped work on the date of the claimed incident.<sup>2</sup>

On December 10, 2019 appellant filed a notice of recurrence (Form CA-2a) for medical treatment beginning November 25, 2019. He explained that the recurrence occurred when he woke up with a sharp back pain and spasms after going to bed with a sore back.

In a December 17, 2019 development letter, OWCP informed appellant that when it had received his claim it had appeared that his injury was minor and had resulted in minimal or no lost time from work. It had administratively approved payment of a limited amount of medical expenses without formally adjudicating the merits of the claim. OWCP advised appellant that it was now formally adjudicating his claim and requested that he submit additional factual and medical information, including a comprehensive report from a physician addressing the relationship between a diagnosed condition and the claimed employment incident. It also requested that appellant complete a factual questionnaire and afforded him 30 days to submit the necessary evidence.

In an October 3, 2018 report, Brian Barton, a physician assistant, noted that appellant was seen that day for back pain he developed after picking up two cases of water at work. He detailed examination findings and diagnosed back muscle spasms.

In a November 26, 2019 report, Bradley Kent Lindstrom, Jr., a physician assistant, noted that appellant was seen for left lower back complaints, which began more than a year prior, following a work-related injury. Appellant's physical examination revealed normal range of motion and mild low back tenderness. Mr. Lindstrom diagnosed chronic left-sided low back pain without sciatica.

On December 2, 2019 Dr. Geoffrey K. Skene, a Board-certified physiatrist, noted appellant's history of injury and his current flare up of back pain. He recommended a magnetic resonance imaging (MRI) scan.

A December 5, 2019 MRI scan of appellant's lumbar spine revealed findings of low-grade multilevel degenerative disc and joint disease, superimposed on a congenitally small spinal canal most focal at the L5-S1 level where a left central disc extrusion narrowed the left lateral recess and exerted mass effect on the descending left S1 nerve root; and moderate spinal canal stenosis at L4-5 and L5-S1.

In a December 5, 2019 report, Dr. Skene noted that appellant did not have a lumbar MRI scan after his work-related injury, which he believed was a failure of diagnosis. He diagnosed intervertebral lumbar disc disorder with radiculopathy and concluded that appellant's back condition was the direct result of his work-related injury.

OWCP also received physical therapy reports dated from December 11, 2019 through January 6, 2020.

---

<sup>2</sup> The record indicates that appellant returned to full-time regular work on November 24, 2019.

On January 7, 2020 OWCP received appellant's completed development questionnaire. Appellant again described his recurrence of back pain.

By decision dated January 23, 2020, OWCP denied appellant's traumatic injury claim finding that, although he had established that the October 3, 2018 employment incident occurred as alleged and had submitted a report from a physician identifying a diagnosed condition, the medical evidence of record was insufficient to establish causal relationship between the diagnosed conditions and the accepted employment incident.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA<sup>3</sup> 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 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 compensation claim, regardless of whether the claim 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>

Rationalized medical opinion evidence is required to establish causal relationship. The opinion of the physician must be based on a complete factual and medical background, 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.<sup>10</sup>

---

<sup>3</sup> *Id.*

<sup>4</sup> *A.M.*, Docket No. 20-0069 (issued June 25, 2020); *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> *B.M.*, Docket No. 19-1341 (issued August 12, 2020); *T.H.*, Docket No. 18-1736 (issued March 13, 2019); *R.C.*, 59 ECAB 427 (2008).

<sup>6</sup> *T.E.*, Docket No. 18-1595 (issued March 13, 2019); *Delores C. Ellyett*, 41 ECAB 992 (1990).

<sup>7</sup> *A.M.*, *supra* note 4; *S.S.*, Docket No. 18-1488 (issued March 11, 2019); *T.H.*, 59 ECAB 388 (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> *M.A.*, Docket No. 19-1551 (issued April 30, 2020); *Dennis M. Mascarenas*, 49 ECAB 215 (1997).

## ANALYSIS

The Board finds that appellant has not met his burden of proof to establish a back condition causally related to the accepted October 3, 2018 employment incident.

Appellant submitted reports from Dr. Skene dated December 2 and 5, 2019 in support of his claim. In the December 2, 2019 report, Dr. Skene noted the history of injury and diagnosed low back pain. However, he offered no opinion as to the cause of diagnosed low back pain. The Board has long held that medical evidence offering no opinion about the cause of an employee's medical condition is of no probative value on the issue of causal relationship.<sup>11</sup> Therefore, for this reason, Dr. Skene's report is insufficient to establish appellant's claim.

The December 5, 2019 report from Dr. Skene is also insufficient to establish appellant's claim. Dr. Skene diagnosed intervertebral lumbar disc disorder with radiculopathy. He opined that appellant's lumbar conditions were attributable to his employment injury. Dr. Skene, however, failed to provide rationale for his conclusion that appellant sustained an employment injury. He did not provide a narrative description of the identified employment incident and a reasoned opinion as to whether the described incident caused or contributed to the diagnosed medical condition.<sup>12</sup> Without medical rationale explaining how the accepted October 3, 2018 employment incident physiologically caused the diagnosed conditions, Dr. Skene's opinion is of limited probative value on the issue of causal relationship.<sup>13</sup>

OWCP received reports from physician assistants and physical therapists. Physician assistants and physical therapists, however, are not considered physicians as defined under FECA and, thus, these reports are of no probative value.<sup>14</sup> Consequently, their medical findings and/or opinions will not suffice for purposes of establishing entitlement to FECA benefits.<sup>15</sup>

As appellant has not submitted rationalized medical evidence sufficient to establish that his diagnosed medical conditions were caused or aggravated by the accepted October 3, 2018 employment incident, the Board finds that he has not met his burden of proof.

---

<sup>11</sup> *D.C.*, Docket No. 19-0354 (issued May 27, 2020); *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

<sup>12</sup> *B.M.*, *supra* note 5; *K.B.*, Docket No. 19-0398 (issued December 18, 2019).

<sup>13</sup> *T.D.*, Docket No. 20-0044 (issued May 19, 2020).

<sup>14</sup> Section 8102(2) of FECA provides as follows: physician "includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, and osteopathic practitioners within the scope of their practice as defined by State law." 5 U.S.C. § 8101(2); 20 C.F.R. § 10.5(t). *See also* Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3a(1) (January 2013); *David P. Sawchuk*, 57 ECAB 316, 320 n.11 (2006) (lay individuals such as physician assistants, nurses, and physical therapists are not competent to render a medical opinion under FECA). *D.M.*, Docket No. 20-0386 (issued August 10, 2020); *M.W.*, Docket No. 19-1667 (issued June 29, 2020) (physician assistants are not considered physicians under FECA); *R.L.*, Docket No. 19-0440 (issued July 8, 2019) (physical therapists are not considered physicians under FECA).

<sup>15</sup> *K.W.*, 59 ECAB 271, 279 (2007); *see also C.K.*, Docket No. 19-1549 (issued June 30, 2020).

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 his burden of proof to establish a back condition causally related to the accepted October 3, 2018 employment incident.

**ORDER**

**IT IS HEREBY ORDERED THAT** the January 23, 2020 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: December 14, 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