



on his satchel while in the performance of duty. He stopped work on that day and returned to work on March 20, 2019.

An unsigned March 16, 2019 work excuse note indicated that appellant could return to work on March 20, 2019.

In an April 23, 2019 statement, appellant indicated that on March 16, 2019 he felt severe back pain after putting on his satchel. He noted that the pain was on the same side that he always carried his satchel.

In two separate letters dated April 24, 2019, the employing establishment controverted appellant's claim.

In a development letter dated April 29, 2019, OWCP informed appellant of the deficiencies of his claim. It advised him of the type of factual and medical evidence needed and provided a questionnaire for his completion. OWCP afforded appellant 30 days to respond.

In an emergency department report dated March 16, 2019, Dr. Brian J. Kaminski, Board-certified in emergency medicine, noted that appellant presented with a complaint of flank pain for three days. Appellant reported that he felt like he may have pulled an abdominal/back/flank muscle while lifting his heavy bag. Dr. Kaminski conducted a physical examination. He reviewed appellant's computerized tomography (CT) scan of the abdomen and concluded that it was unremarkable.<sup>2</sup> Dr. Kaminski diagnosed acute left flank pain and muscle strain. In an after-visit summary of even date, he repeated the same diagnoses.

OWCP received hospital records, which noted again that appellant was seen by Dr. Kaminski on March 16, 2019.

Appellant also submitted a copy of a text message conversation from March 17, 2019, in which he informed his manager that his back gave out, and that he was in severe pain and unable to walk normally or carry the mail any longer.

In a May 19, 2019 response to OWCP's questionnaire, appellant asserted that he was injured while in the performance of duty. He alleged that his duties often caused minor aches and pain that went away after a night or two of sleep and that he had been experiencing back pain prior to the alleged March 16, 2019 employment incident. Appellant noted that he had been working over 60 hours every week for over a month before the March 16, 2019 employment incident. On March 16, 2019 he indicated that he first felt minor pain in his back during his lunch break, which worsened over a period of 30 minutes. Appellant continued to work for the rest of the day until he tried to put on his satchel to deliver parcels and experienced severe pain that shot through the left side of his lower back while lifting the satchel from the driver seat of his vehicle. He contended that he could not lift weight anymore, indicating that his bag typically weighed 7 pounds empty and 13 pounds with parcels. Appellant delivered two small parcels without the satchel, but could

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<sup>2</sup> A March 16, 2019 CT scan of the abdomen and pelvis revealed no hydronephrosis or nephrolithiasis, but demonstrated diverticulosis without diverticulitis and abundant stool in the right-sided colon, which might reflect constipation.

not continue to walk and deliver mail for the rest of the day wearing his satchel. He asserted that when he notified the employing establishment, he was not given any instruction.

By decision dated June 7, 2019, OWCP denied appellant's claim. It accepted that the March 16, 2019 employment incident occurred, as alleged, and that a medical condition had been diagnosed. However, OWCP found that the medical evidence of record was insufficient to establish that the accepted March 16, 2019 employment incident caused or aggravated the diagnosed condition.

OWCP received duplicate copies of the March 16, 2019 hospital records.

On July 7, 2019 appellant requested an oral hearing before a representative of OWCP's Branch of Hearings and Review. An oral hearing was scheduled for October 14, 2019.

In a June 21, 2019 medical note, Dr. Jerry Yen, Board-certified in internal medicine, indicated that appellant was off work due to lower back pain, which "may have been caused" by lifting his satchel. In a June 28, 2019 medical note, he indicated that appellant could return to work on June 29, 2019, but advised that appellant's work hours should not exceed 60 hours per week until August 1, 2019.

In a July 7, 2019 statement, appellant again asserted that he was never provided the correct paperwork after he notified his manager and supervisors of his injury. He also noted that Dr. Kaminski refused to provide a narrative report.

Appellant resubmitted copies of Dr. Kaminski's March 16, 2019 report.

An October 1, 2019 memorandum of telephone call (Form CA-110) noted that appellant informed OWCP that he would be unable to attend his oral hearing and requested a telephone hearing instead. A telephone hearing, therefore, was scheduled for October 15, 2019. Appellant, however, did not appear at the scheduled hearing. An October 18, 2019 Form CA-110 indicated that appellant called to notify OWCP that he missed his hearing and requested that it be rescheduled. In an October 18, 2019 letter, OWCP notified him that, although he missed the hearing, because he showed continued interest to pursue his appeal, and as rescheduling was not possible, it would conduct a review of the written record. It afforded appellant 15 days to submit any additional evidence.

In a November 1, 2019 statement, appellant reiterated that working over 60 hours every week for over a month caused complete musculoskeletal and mental fatigue that eventually led to his March 16, 2019 injury. He repeated that the employing establishment failed to provide him with the appropriate forms. Appellant also asserted that he was retaliated against by the employing establishment through investigative interviews and discipline.

By decision dated November 12, 2019, an OWCP hearing representative affirmed the June 7, 2019 decision.

## 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 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 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.<sup>7</sup>

The medical evidence required to establish causal relationship between a claimed specific condition and an employment incident is rationalized medical opinion evidence.<sup>8</sup> 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.<sup>9</sup>

## ANALYSIS

The Board finds that appellant has not met his burden of proof to establish a back condition causally related to the accepted March 16, 2019 employment incident.

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

<sup>4</sup> *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).

<sup>5</sup> *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).

<sup>6</sup> *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).

<sup>7</sup> *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).

<sup>8</sup> *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).

<sup>9</sup> *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).

In a March 16, 2019 report, Dr. Kaminski noted that appellant reported that he felt like he may have pulled his abdominal/back/flank muscle while lifting his heavy bag. He diagnosed acute left flank pain and muscle strain. However, Dr. Kaminski did not provide an opinion on the cause of appellant's diagnosed muscle strain. Medical evidence which does not offer an opinion regarding the cause of an employee's condition is of no probative value on the issue of causal relationship.<sup>10</sup> As he did not address causal relationship, Dr. Kaminski's report is insufficient to meet appellant's burden of proof.<sup>11</sup>

In medical notes dated June 21 and 28, 2019, Dr. Yen indicated that appellant was off work due to lower back pain which may have been caused by lifting his satchel and advised that appellant could return to work on June 29, 2019. The Board has held that pain is a symptom and not a compensable medical diagnosis.<sup>12</sup> Furthermore, a medical report lacking a firm diagnosis and a rationalized medical opinion regarding causal relationship is of no probative value.<sup>13</sup> As such, these notes are insufficient to meet appellant's burden of proof.

Appellant also submitted an unsigned work excuse note dated March 16, 2019. 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.<sup>14</sup> Therefore, this note has no probative value and is also insufficient to establish the claim.

As there is no rationalized medical evidence of record explaining how appellant's accepted March 16, 2019 employment incident caused or aggravated his diagnosed condition, the Board finds that he has not met his 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 his burden of proof to establish a back condition causally related to the accepted March 16, 2019 employment incident.

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<sup>10</sup> *A.P.*, Docket No. 18-1690 (issued December 12, 2019); *J.H.*, Docket No. 19-0383 (issued October 1, 2019).

<sup>11</sup> *T.R.*, Docket No. 18-1272 (issued February 15, 2019); *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

<sup>12</sup> *See S.L.*, Docket No. 19-1536 (issued June 26, 2020); *D.Y.*, Docket No. 20-0112 (issued June 25, 2020).

<sup>13</sup> *J.P.*, Docket No. 20-0381 (issued July 28, 2020); *R.L.*, Docket No. 20-0284 (issued June 30, 2020).

<sup>14</sup> *R.L.*, *id.*; *M.A.*, Docket No. 19-1551 (issued April 30, 2020); *T.O.*, Docket No. 19-1291 (issued December 11, 2019).

**ORDER**

**IT IS HEREBY ORDERED THAT** the November 12, 2019 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: December 21, 2020  
Washington, DC

Janice B. Askin, Judge  
Employees' Compensation Appeals Board

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

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