United States Department of Labor
Employees' Compensation Appeals Board

R.J., Appellant	)	
and	)	**Docket No. 20-1630**
	)	**Issued: April 27, 2021**
U.S. POSTAL SERVICE, POST OFFICE, Newark, NJ, Employer	)	

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

Case Submitted on the Record

DECISION AND ORDER

Before:
JANICE B. ASKIN, Judge
PATRICIA H. FITZGERALD, Alternate Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On September 15, 2020 appellant filed a timely appeal from an August 4, 2020 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] The Board notes that, during the pendency of this appeal, OWCP issued an October 29, 2020 decision which denied an October 5, 2020 request for reconsideration of its August 4, 2020 decision. The Board and OWCP may not simultaneously exercise jurisdiction over the same issue(s). 20 C.F.R. §§ 501.2(c)(3), 10.626; *see J.W.*, Docket No. 19-1688, n.1 (issued March 18, 2020); *J.A.*, Docket No. 19-0981, n.2 (issued December 30, 2019); *Russell E. Lerman*, 43 ECAB 770 (1992); *Douglas E. Billings*, 41 ECAB 880 (1990). Consequently, OWCP's October 29, 2020 decision is set aside as null and void.

[2] 5 U.S.C. § 8101 *et seq.*

[3] The Board notes that, following the August 4, 2020 decision, OWCP received additional evidence. 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 medical condition causally related to the accepted June 22, 2020 employment incident.

FACTUAL HISTORY

On June 25, 2020 appellant, then a 29-year-old city carrier, filed a traumatic injury claim (Form CA-1) alleging that on June 22, 2020, he experienced head and chest pain when he became light-headed, dizzy, and nauseous and fainted while in the performance of duty. On the reverse side of the claim form C.C., an employing establishment supervisor, controverted the claim. Appellant stopped work on the date of the alleged injury.

In an undated statement, appellant reported that on June 22, 2020 he was delivering mail on his route while the outside temperature was 91 degrees with 83 percent humidity. He began to feel dizzy, light-headed, and nauseous and then fainted in his truck for what he believed was about 5 to 10 minutes. Appellant woke up when an unknown woman knocked on his truck door. He contacted the employing establishment and then drove back to the office and thereafter called an ambulance.

In notes dated June 23 and 29, 2020, Dr. Concepcion Dancel, a Board-certified pediatrician, recommended that appellant remain off work from June 23 through July 30, 2020.

In a June 30, 2020 development letter, OWCP informed appellant that the evidence submitted was insufficient to establish his claim. It advised him of the type of factual and medical evidence necessary and provided a questionnaire for completion. OWCP afforded appellant 30 days to respond.

OWCP subsequently received a June 29, 2020 authorization for examination and/or treatment (Form CA-16) in which the employing establishment authorized appellant to seek medical care for syncope. The date of injury listed was June 22, 2020. In an attending physician's report, Part B of the Form CA-16, of even date, Dr. Rita Goradia, a family practice specialist, diagnosed syncope and checked a box marked "Yes," indicating that she believed that the condition was caused or aggravated by an employment activity. She explained that appellant had a history of having been found unresponsive, slumped over the wheel of his work van on June 22, 2020, and that this was possibly secondary to sitting in a non-air-conditioned work van on a day where outside temperatures were in excess of 90 degrees.

On July 9, 2020 Dr. James Zu, a Board-certified neurologist, referred appellant for a magnetic resonance imaging (MRI) scan of his brain and electroencephalogram (EEG).

In response to OWCP's development questionnaire, appellant submitted an undated statement indicating that, in addition to the hot and humid weather on June 22, 2020, he was lifting heavy packages all day in excess of his normal workload. After he passed out and was evaluated by a medic, he indicated that he returned home and sought treatment with a doctor.

In a July 9, 2020 report, Dr. Mathew Cholankeril, a cardiologist, noted that appellant provided a history of passing out in his postal vehicle and experiencing right-sided chest discomfort. Appellant related a seven-year history of hypertension, which he indicated began

when he started working for the employing establishment. Dr. Cholankeril reviewed an electrocardiogram (EKG) which revealed sinus rhythm with frequent uniform premature ventricle contractions (PVCs) in a pattern of trigeminy and an echocardiogram (echo), which revealed dilated ventricle with low left ventricle systolic function and mild mitral and tricuspid valve insufficiency. He performed a physical examination and noted elevated blood pressure and an irregular heartbeat. Dr. Cholankeril diagnosed a recent syncopal episode, uncontrolled hypertension, hypertensive cardiovascular disease, and frequent ventricular arrhythmia in a pattern of trigeminy. He recommended a Holter monitor and a nuclear stress test.

In a July 16, 2020 letter, Dr. Cholankeril noted that appellant had been under his care following a syncopal episode which occurred on June 22, 2020, and that he was taking Norvasc, Losarten, and Clondine to control his hypertension. He recommended appellant remain out of work until September 1, 2020.

By decision dated August 4, 2020, OWCP accepted that the June 22, 2020 employment incident occurred, alleged. However, it denied appellant's traumatic injury claim because the medical evidence of record was insufficient to establish causal relationship between appellant's diagnosed conditions and the accepted 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 and 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]

[4] *Supra* note 1.

[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).

The medical evidence required to establish 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]

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish a medical condition causally related to the accepted June 22, 2020 employment incident.

In the June 29, 2020 Form CA-16, Dr. Goradia provided a diagnosis of syncope and checked a box marked "Yes" indicating that she believed that the condition was caused or aggravated by an employment activity. She opined that appellant's June 22, 2020 syncope episode at work was possibly secondary to sitting in a non-air-conditioned work van on a day where outside temperatures were in excess of 90 degrees. Dr. Goradia's explanation that appellant's condition was "possibly" secondary to environmental factors is speculative in nature. The Board has held that medical opinions that are speculative or equivocal are of diminished probative value.[11] Dr. Goradia also did not offer any rationale for her opinion relative to causal relationship. The Board has held that medical opinion evidence should offer a medically-sound explanation of how the specific employment incident physiologically caused the injury.[12] Lacking an unequivocal and rationalized explanation, Dr. Goradia's June 29, 2020 report is insufficient to meet appellant's burden of proof.[13]

In his July 16, 2020 letter, Dr. Cholankeril diagnosed a syncopal episode, uncontrolled hypertension, hypertensive cardiovascular disease, and ventricular arrhythmia. He did not offer an opinion as to the cause of these conditions. 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.[14] Consequently, Dr. Cholankeril's July 16, 2020 letter is also insufficient to establish appellant's claim.

[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, *Developing and Evaluating Medical Evidence*, Chapter 2.810.5(c)(3); *D.S.*, Docket No. 20-0384 (issued October 8, 2020); *H.A.*, Docket No. 18-1455 (issued August 23, 2019).

[12] *See T.W.*, Docket No. 20-0767 (issued on January 13, 2021); *H.A.*, *id.*; *L.R.*, Docket No. 16-0736 (issued September 2, 2016).

[13] *See C.B.*, Docket No. 20-0464 (issued July 21, 2020).

[14] *See L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

Similarly, Dr. Dancel's June 20 and 23, 2020 notes do not contain a firm diagnosis, mechanism of injury or opinion on causal relationship. The Board has held that a medical report lacking a firm diagnosis is of no probative value.[15] Likewise, as noted above, a report that does not offer an opinion regarding the cause of an employee's condition is also of no probative value.[16] Thus, Dr. Dancel's notes are insufficient to establish appellant's claim.

As appellant has not submitted rationalized medical evidence establishing a medical condition causally related to the accepted June 22, 2020 employment incident, the Board finds that he has not met his burden of proof to establish his claim.

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 medical condition causally related to the accepted June 22, 2020 employment incident.[17]

[15] *J.P.*, Docket No. 20-0381 (issued July 28, 2020); *R.L.*, Docket No. 20-0284 (issued June 30, 2020).

[16] *Id*.

[17] The Board notes that the employing establishment issued a Form CA-16, dated June 22, 2020. 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); *see G.E.*, Docket No. 20-1081 (issued January 26, 2021); *J.G.*, Docket No. 17-1062 (issued February 13, 2018); *Tracy P. Spillane*, 54 ECAB 608 (2003).

ORDER

IT IS HEREBY ORDERED THAT the August 4, 2020 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: April 27, 2021
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