United States Department of Labor
Employees' Compensation Appeals Board

M.P., Appellant	)	
and	)	**Docket No. 20-0996**
	)	**Issued: January 26, 2021**
DEPARTMENT OF THE INTERIOR, NATIONAL PARK SERVICE, Grand Canyon, AZ, 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 April 9, 2020 appellant filed a timely appeal from a March 10, 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 to consider the merits of this case.

[1] Appellant submitted a timely request for oral argument before the Board. 20 C.F.R. § 501.5(b). Pursuant to the Board's *Rules of Procedure*, oral argument may be held in the discretion of the Board. 20 C.F.R. § 501.5(a). In support of appellant's oral argument request, she asserted that oral argument should be granted to provide her with an opportunity to explain the abuse at work. The Board, in exercising its discretion, denies appellant's request for oral argument because the arguments on appeal can adequately be addressed in a decision based on a review of the case record. Oral argument in this appeal would further delay issuance of a Board decision and not serve a useful purpose. As such, the oral argument request is denied and this decision is based on the case record as submitted to the Board.

[2] 5 U.S.C. § 8101 *et seq.*

ISSUE

The issue is whether appellant has met her burden of proof to establish a diagnosed medical condition causally related to the accepted January 5, 2020 employment incident.

FACTUAL HISTORY

On January 25, 2020 appellant, then a 29-year-old housekeeping employee, filed a traumatic injury claim (Form CA-1) alleging that on January 5, 2020 she sustained second-degree burns on her face, arm, shoulder, and breast when a bottle cap burst while in the performance of duty. She stopped work on January 10, 2020 and returned to work on January 27, 2020. In an accompanying narrative statement dated January 10, 2020, appellant explained that on January 5, 2020 she grabbed a bottle of cleaner from a high shelf in the chemical/supplies room at work and unbeknownst to her the bottle cap was unsecured. She related that the contents of the bottle fell across her face, hit her left shoulder region, and subsequently dispensed on her right elbow. Appellant maintained that she was not aware of the immediate effect of the chemical spill until later that night when she returned home. She felt sick and like she was going to pass out. On January 6, 2020 appellant realized that the cleaner had permeated her jacket and work shirt. She woke up rubbing her eyes with immense burning/itching of the face, left arm, shoulder, armpit, breast regions. Appellant immediately notified her supervisor about this incident. She was treated at a nearby clinic and advised that she suffered from second-degree welts/burns on the above-mentioned areas.

OWCP subsequently received medical evidence. A January 21, 2020 duty status report (Form CA-17) by an unknown provider with an illegible signature noted the date of injury as January 5, 2020. Appellant was diagnosed as having a burn due to injury. The report indicated that she could resume work on January 27, 2020 with a left arm restriction.

OWCP also received an unsigned authorization for examination and/or treatment (Form CA-16). In Part B of the Form CA-16, an attending physician's report that was undated, Robert Tapley, a certified physician assistant, indicated that he first examined appellant on January 6, 2020 after she was diagnosed with having a partial thickness burn due to a chemical. He checked a box marked "No" indicating that the diagnosed condition was not caused or aggravated by the described employment activity. Mr. Tapley advised that appellant could resume work.

In a development letter dated February 5, 2020, OWCP notified appellant that the evidence submitted was insufficient to establish her claim. It advised her of the type of factual and medical evidence necessary to establish her claim and provided a questionnaire for her completion. OWCP afforded appellant 30 days to submit the requested evidence.

OWCP thereafter received additional medical evidence. A January 10, 2020 Form CA-17 report signed by Mr. Tapley noted a history of the alleged January 5, 2020 work incident. He diagnosed chemical burn under the left arm. Mr. Tapley advised that appellant could return to work on January 18, 2020 with restrictions.

A January 14, 2020 Form CA-17 report by an unknown provider with an illegible signature noted a history of injury that on January 5, 2020 appellant was burned by a chemical. She was

diagnosed as having a second-degree burn due to injury. The report indicated that appellant was unable to resume work.

Dr. Cooper C. Schraudenbach, a family practitioner, advised in a February 21, 2020 return to work certificate that appellant could return to full-duty work. He noted that she had been under his care and that she had a workers' compensation case earlier that winter involving her job at the employing establishment.

By decision dated March 10, 2020, OWCP denied appellant's traumatic injury claim, finding that the evidence of record was insufficient to establish a diagnosed condition in connection with the accepted January 5, 2020 employment incident. It concluded, therefore, that the requirements had not been met to establish an injury as defined under FECA.

LEGAL PRECEDENT

An employee seeking benefits under FECA[3] 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,[4] 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.[5] 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.[6]

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.[7]

The medical evidence required to establish a causal relationship between a claimed specific condition and an employment incident is rationalized medical opinion evidence.[8] The opinion of the physician must be based on a complete factual and medical background of the employee, must

[3] *Id.*

[4] *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).

[5] *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).

[6] *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).

[7] *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).

[8] *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).

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.[9]

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish a diagnosed medical condition causally related to the accepted January 5, 2020 employment incident.

In support of her claim, appellant submitted a February 21, 2020 return to work certificate from Dr. Schraudenbach, who released appellant to return to full-duty work. However, Dr. Schraudenbach failed to provide a detailed history of injury pertaining to the accepted January 5, 2020 employment incident. He noted that appellant had a workers' compensation case earlier that year related to an injury sustained at the employing establishment. Without a proper understanding of the employment incident, an opinion on causal relationship is of limited probative value as the physician is unable to describe how the incident caused the diagnosed conditions.[10] Moreover, Dr. Schraudenbach did not provide a rationalized opinion regarding causal relationship. The Board has held that a medical report is of no probative value on causal relationship if it does not provide a firm diagnosis of a particular medical condition or offer a specific opinion as to whether the accepted employment incident caused or aggravated the claimed condition.[11] For these reasons, the Board finds that Dr. Schraudenbach's report is insufficient to meet appellant's burden of proof.

Appellant also submitted an undated attending physician's report and a January 10, 2020 Form CA-17 report signed solely by Mr. Tapley, a certified physician assistant, who diagnosed a partial thickness burn and addressed appellant's work capacity. However, certain healthcare providers such as physician assistants are not considered "physician[s]" as defined under FECA.[12] Consequently, their medical findings and/or opinions will not suffice for purposes of establishing entitlement to FECA benefits.[13] Thus, this evidence is of no probative value and is insufficient to establish appellant's claim.

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[9] *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).

[10] *See S.F.*, Docket No. 19-1835 (issued May 14, 2020); *J.C.*, Docket No. 19-0310 (issued June 18, 2019); *L.M.*, Docket No. 14-0973 (issued August 25, 2014); *R.G.*, Docket No. 14-0113 (issued April 25, 2014); *K.M.*, Docket No. 13-1459 (issued December 5, 2013); *A.J.*, Docket No. 12-0548 (issued November 16, 2012).

[11] *See A.R.*, Docket No. 19-1560 (issued March 2, 2020).

[12] 5 U.S.C. § 8101(2); 20 C.F.R. § 10.5(t).

[13] Section 8101(2) of FECA provides that 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). *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); *R.P.*, Docket No. 20-0161 (issued October 23, 2020); *R.R.*, Docket No. 20-0558 (issued August 31, 2020); *R.K.*, Docket No. 20-0049 (issued April 10, 2020) (a physician assistant is not considered a physician as defined under FECA).

The remaining medical evidence of record includes Form CA-17 reports dated January 14 and 21, 2020 by an unknown provider with an illegible signature, who diagnosed a second-degree burn due to the January 5, 2020 employment incident and addressed appellant's work capacity and work restriction. 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.[14] Therefore, these reports have no probative value and are insufficient to establish the claim.

As there is no well-rationalized medical opinion presently of record before the Board establishing appellant's traumatic injury claim the Board finds that she has not met her burden of proof.[15]

On appeal appellant contends that the medical evidence of record is sufficient to establish a work-related burn injury. As found above, the evidence submitted did not provide medical rationale from a physician explaining the causal relationship between appellant's burn condition and the accepted January 5, 2020 employment incident. Thus, the Board finds that 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 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 diagnosed medical condition causally related to the accepted January 5, 2020 employment incident.

[14] *T.U.*, Docket No. 19-1636 (issued October 29, 2020); *R.L.*, Docket No. 20-0284 (issued June 30, 2020); *M.A.*, Docket No. 19-1551 (issued April 30, 2020); *T.O.*, Docket No. 19-1291 (issued December 11, 2019).

[15] *C.C.*, Docket No. 19-1071 (issued August 26, 2020); *T.J.*, Docket No. 19-1339 (issued March 4, 2020); *F.D.*, Docket No. 19-0932 (issued October 3, 2019); *D.N.*, Docket No. 19-0070 (issued May 10, 2019); *R.B.*, Docket No. 18-1327 (issued December 31, 2018).

ORDER

IT IS HEREBY ORDERED THAT the March 10, 2020 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: January 26, 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