

**United States Department of Labor
Employees' Compensation Appeals Board**

_____)	
K.G., Appellant)	
)	
and)	Docket No. 21-1021
)	Issued: April 5, 2022
U.S. POSTAL SERVICE, POST OFFICE,)	
Baltimore, MD, 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
PATRICIA H. FITZGERALD, Deputy Chief Judge
JANICE B. ASKIN, Judge

JURISDICTION

On June 28, 2021 appellant filed a timely appeal from a March 10, 2021 merit decision of the Office of Workers' Compensation Programs (OWCP).¹ Pursuant to the Federal Employees' Compensation Act² (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

ISSUE

The issue is whether appellant has met her burden of proof to establish a diagnosed medical condition causally related to the accepted January 29, 2021 employment incident.

¹ The Board notes that, following the March 10, 2021 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.*

² 5 U.S.C. § 8101 *et seq.*

FACTUAL HISTORY

On January 30, 2021 appellant, then a 47-year-old rural carrier, filed a traumatic injury claim (Form CA-1) alleging that on January 29, 2021 she was involved in a motor vehicle accident wherein she sustained injury to her right leg and back while in the performance of duty. On the reverse side of the claim form, appellant's supervisor acknowledged that she was injured in the performance of duty. Appellant stopped work on the alleged date of injury.

On January 29, 2021 the employing establishment issued an authorization for examination and/or treatment (Form CA-16), authorizing treatment for a lumbar strain sustained on that date.

In support of her claim, appellant submitted a report dated January 29, 2021 from Cem Beygo, a physician assistant. Mr. Beygo related that appellant was involved in a motor vehicle traffic collision and suffered a blunt injury to the abdomen and acute thoracic back pain.

OWCP received discharge instructions dated January 29, 2021 from Dr. William C. Todd, a Board-certified emergency medicine specialist. Dr. Todd related that appellant had been in a motor vehicle accident and he diagnosed low back and thoracic spine strain, and abdominal trauma.

OWCP received a sheriff's report dated January 29, 2021, which confirmed that appellant was involved in a motor vehicle accident on January 29, 2021.

In a development letter dated February 2, 2021, OWCP informed appellant of the deficiencies of her claim. It advised her of the type of factual and medical evidence needed and afforded her 30 days to submit the necessary evidence.

In a report dated January 29, 2021, Tania M. Jenkins, a certified registered nurse practitioner, related that appellant was involved in a motor vehicle accident that caused her entire body to jostle and her knee to strike the dashboard. Appellant reported pain in her abdomen, back, and knee. Ms. Jenkins diagnosed strain of muscle and tendon of back wall of thorax, strain of muscle fascia of lower back, and unspecified injury of abdomen.

OWCP received a CT scan and x-ray reports of appellant's spine dated January 29, 2021 from Dr. Pankaj Kaushal, an interventional and diagnostic radiology specialist. He noted mild-to-moderate loss of disc space at L1-4.

Appellant also submitted an unsigned medical report dated February 3, 2021, which stated appellant was involved in an accident and pain in her lower and upper back.

By decision dated March 10, 2021, OWCP denied appellant's traumatic injury claim, finding that the evidence of record was insufficient to establish a diagnosed medical condition in connection with the accepted January 21, 2021 employment incident. It concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

LEGAL PRECEDENT

An employee seeking benefits under FECA³ 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 FECA, that the claim was timely filed within the applicable time limitation period 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 must first be determined whether a fact of injury has been established. There are two components involved in establishing fact of injury. The first component to be established is that, 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.⁷

The medical evidence required to establish 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 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 met her burden of proof to establish a diagnosed medical condition. In support of her claim, appellant submitted discharge instructions dated January 29, 2021 from Dr. Todd. Dr. Todd related that appellant was in a motor vehicle accident and he diagnosed thoracic and lumbar spine strain. The Board finds that, based on the report from

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).

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).

Dr. Todd, appellant has met her burden of proof to establish diagnosed medical conditions, allegedly secondary to the accepted January 29, 2021 employment incident.

The Board further finds, however, that the case is not in posture for decision with regard to causal relationship. As the medical evidence of record establishes diagnosed thoracic and lumbar spine strains, the case must be remanded for consideration of the medical evidence with regard to the issue of causal relationship. Following this and other such further development as deemed necessary, OWCP shall issue a *de novo* decision.¹⁰

CONCLUSION

The Board finds that appellant has met her burden of proof to establish a diagnosed medical condition. The Board further finds that the case is not in posture for decision with regard to causal relationship.

¹⁰ 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); *J.G.*, Docket No. 17-1062 (issued February 13, 2018); *Tracy P. Spillane*, 54 ECAB 608 (2003).

ORDER

IT IS HEREBY ORDERED THAT the March 10, 2021 decision of the Office of Workers' Compensation Programs is set aside and the case is remanded to OWCP for proceedings consistent with this decision of the Board.

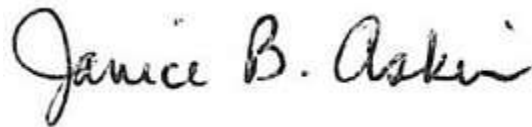
Issued: April 5, 2022
Washington, DC



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



Patricia H. Fitzgerald, Deputy Chief Judge
Employees' Compensation Appeals Board



Janice B. Askin, Judge
Employees' Compensation Appeals Board