United States Department of Labor
Employees' Compensation Appeals Board

T.C., Appellant	)	
and	)	**Docket No. 21-1123**
	)	**Issued: April 5, 2022**
U.S. POSTAL SERVICE, POST OFFICE, Nashville, TN, 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
JANICE B. ASKIN, Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On July 16, 2021 appellant filed a timely appeal from a March 8, 2021 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.

ISSUE

The issue is whether appellant has met her burden of proof to establish a diagnosed medical condition causally related to the accepted January 16, 2021 employment incident.

[1] The Board notes that, following the March 8, 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 22, 2021 appellant, then a 31-year-old rural carrier, filed a traumatic injury claim (Form CA-1) alleging that on January 16, 2021 she injured her back when she slipped as she exited her mail vehicle 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 submitted a workers' compensation form from a medical facility dated January 18, 2021, bearing an illegible provider's signature, which listed appellant's diagnosis as lumbar sprain, and noted appellant's restrictions.

In a narrative statement dated January 19, 2021, appellant attested that on January 16, 2021 she missed a step while exiting her mail vehicle, which caused her to twist her back. She stated that the accident occurred at approximately 1:30 p.m. and that she was wearing slip on shoes. Appellant immediately contacted her manager by text message and after she finished her route she sought medical treatment.

In a development letter dated January 26, 2021, OWCP advised appellant of the type of factual and medical evidence needed and provided appellant with a questionnaire. It afforded appellant 30 days to submit the necessary evidence.

Appellant submitted additional workers' compensation forms from a medical facility dated January 25 and February 12, 2021, bearing an illegible provider's signature, which contained a diagnosis of lumbar sprain.

OWCP also received January 28, February 2, 5, and 9, 2021 progress notes from physical therapists. The January 28, 2021 note related appellant's history of injury on January 16, 2021 when she missed a step as she was exiting an employing establishment vehicle. These notes indicated diagnoses of lumbar strain and acute low back pain, unspecified as to whether sciatica is present.

Appellant submitted a response to OWCP's questionnaire. She stated that she slipped when exiting her van and injured her lumbar spine. Appellant noted that she was diagnosed with a lumbar sprain.

Appellant also submitted a February 12, 2021 form report, which noted appellant's date of injury as January 16, 2021, and noted a diagnosis of lumbar sprain. The report bore an illegible signature.

By decision dated March 8, 2021, OWCP accepted that the January 16, 2021 employment incident occurred, as alleged, but denied appellant's claim, finding that she had not submitted medical evidence containing a medical diagnosis in connection with her accepted 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 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 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 not met her burden of proof to establish a diagnosed medical condition causally related to the accepted January 16, 2021 employment incident.

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[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).

In support of her claim, appellant submitted a series of form reports dated from January 18 to February 12, 2021 which noted a diagnosis of lumbar sprain, but which only bore an illegible signature. The Board has held that reports that are unsigned by a physician or bear an illegible signature lack proper identification and cannot be considered probative medical evidence as the author cannot be identified as a physician.[10] Accordingly, these reports are insufficient to establish appellant's claim.

OWCP also received progress reports from physical therapists dated from January 28 to February 9, 2021. The Board has long held that certain healthcare providers such as physician assistants, nurses, nurse practitioners, physical therapists, and social workers are not considered physicians as defined under FECA.[11] Consequently, their medical findings and/or opinions will not suffice for purposes of establishing entitlement to FECA benefits.[12]

As there is no medical evidence of record establishing a diagnosed medical condition causally related to the accepted January 16, 2021 employment incident, 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(a) 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 16, 2021 employment incident.

[10] *M.A.*, Docket No. 19-1551 (issued April 30, 2020); *T.O.*, Docket No. 19-1291 (issued December 11, 2019); *Merton J. Sills*, 39 ECAB 572, 575 (1988).

[11] 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); 20 C.F.R. § 10.5(t). *See* 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; *see also A.M.*, Docket No. 20-1575 (issued May 24, 2021) (physical therapists).

[12] *Id.*

ORDER

IT IS HEREBY ORDERED THAT the March 8, 2021 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: April 5, 2022
Washington, DC

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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