United States Department of Labor
Employees' Compensation Appeals Board

T.C., Appellant	)	
and	)	**Docket No. 22-0715**
	)	**Issued: December 13, 2022**
U.S. POSTAL SERVICE, PROCESSING & DISTRIBUTION CENTER, Charlotte, NC, Employer	)	

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

Case Submitted on the Record

DECISION AND ORDER

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

JURISDICTION

On April 13, 2022 appellant filed a timely appeal from December 17, 2021 and April 4, 2022 merit decisions of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act[1] (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 his burden of proof to establish a diagnosed medical condition in connection with the accepted October 28, 2021 employment incident.

FACTUAL HISTORY

On October 29, 2021 appellant, then a 44-year-old mail handler, filed a traumatic injury claim (Form CA-1) alleging that on October 28, 2021 he experienced pain in his left lower back

[1] 5 U.S.C. § 8101 *et seq*.

radiating into his left leg when trying to move a package off the floor while in the performance of duty. He stopped work on October 28, 2021.

On October 28, 2021 a physician assistant indicated that on that date appellant felt pain in his left hip radiating into his left leg when he tried to lift a package off the floor. She diagnosed an encounter related to workers' compensation, lumbar strain, and radiculopathy. The physician assistant found that appellant could work with restrictions. She provided a similar report on November 2, 2021.

In a development letter dated November 10, 2021, 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 submit the necessary evidence.

The record contains a November 11, 2021 unsigned report from a healthcare provider.

In a statement dated November 13, 2021, appellant related that he experienced sharp pain in his low back when he turned to the right while lifting a package.

In an authorization for examination and/or treatment (Form CA-16) dated November 17, 2021, a physician assistant diagnosed lumbar sprain and lumbar radiculopathy. She checked a box marked "Yes" indicating that the condition was caused or aggravated by the described employment activity of appellant feeling pain in his back radiating into his left leg after picking a package off the ground.

In a November 17, 2021 progress report, a physician assistant diagnosed lumbar strain, radiculopathy, and an encounter related to a workers' compensation claim. She provided work restrictions. The physician assistant provided similar findings in a November 23, 2021 progress report.

In a report of work status (Form CA-3), the employing establishment advised that appellant had returned to modified employment on December 2, 2021.

In a Form CA-16 dated December 7, 2021, Dr. Julius Kehinde Tokunboh, an internist, diagnosed lumbago with sciatica. He checked a box marked "Yes" that the condition was caused or aggravated by the described employment activity of appellant lifting a package at work on October 28, 2021. Dr. Tokunboh provided work restrictions.

By decision dated December 17, 2021, OWCP denied appellant's traumatic injury claim, finding that the evidence of record was insufficient to establish the occurrence of the alleged October 28, 2021 employment incident. It concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

Thereafter, appellant resubmitted the unsigned November 11, 2021 report from a healthcare provider.

By decision dated April 4, 2022, OWCP modified its December 17, 2021 decision to find that appellant had factually established the occurrence of the October 28, 2021 employment

incident. It further found, however, that the evidence of record was insufficient to establish a diagnosed condition in connection with the accepted employment incident.

LEGAL PRECEDENT

An employee seeking benefits under FECA[2] has the burden of proof to establish the essential elements of his or her claim, including the fact that the individual is an employee of the United States within the meaning of FECA, that the claim was filed within the applicable time limitation of FECA,[3] that an injury was sustained while in the performance of duty as alleged, and that any disability or specific condition for which compensation is claimed is causally related to the employment injury.[4] These are the essential elements of each and every compensation claim regardless of whether the claim is predicated on a traumatic injury or an occupational disease.[5]

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.[6] Generally, fact of injury consists of two components that must be considered in conjunction with one another. 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.[7] Second, the employee must submit sufficient evidence to establish that the employment incident caused a personal injury.[8]

Causal relationship is a medical question that requires rationalized medical opinion evidence to resolve the issue.[9] The opinion of the physician must be based upon a complete factual and medical background, 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 the specific employment incident.[10]

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[2] *Supra* note 2.

[3] *F.H.*, Docket No. 18-0869 (issued January 29, 2020); *S.C.*, Docket No. 18-1242 (issued March 13, 2019); *J.P.*, 59 ECAB 178 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

[4] *L.C.*, Docket No. 19-1301 (issued January 29, 2020); *T.H.*, Docket No. 18-1736 (issued March 13, 2019); *R.C.*, 59 ECAB 427 (2008).

[5] *P.A.*, Docket No. 18-0559 (issued January 29, 2020); *T.E.*, Docket No. 18-1595 (issued March 13, 2019); *Delores C. Ellyett*, 41 ECAB 992 (1990).

[6] *S.S.*, Docket No. 18-1488 (issued March 11, 2019); *T.H.*, 59 ECAB 388 (2008).

[7] *D.S.*, Docket No. 21-1315 (issued May 5, 2022); *D.S.*, Docket No. 17-1422 (issued November 9, 2017); *Elaine Pendleton*, 40 ECAB 1143 (1989).

[8] *B.M.*, Docket No. 17-0796 (issued July 5, 2018); *John J. Carlone*, 41 ECAB 354 (1989).

[9] *E.G.*, Docket No. 20-1184 (issued March 1, 2021); *T.H.*, *supra* note 6.

[10] *D.C.*, Docket No. 19-1093 (issued June 25, 2020); *see L.B.*, Docket No. 18-0533 (issued August 27, 2018).

ANALYSIS

The Board finds that appellant has met his burden of proof to establish a diagnosed medical condition in connection with the accepted October 28, 2021 employment incident.

In support of his claim, appellant submitted a December 7, 2021 Form CA-16 from Dr. Tokunboh.[11] Dr. Tokunboh diagnosed lumbago with sciatica and indicated by checking a box marked "Yes" that the condition was caused or aggravated by the described employment activity of lifting a package at work on October 28, 2021. He found that appellant could work with restrictions. The Board thus finds that appellant has met his burden of proof to establish sciatica as a diagnosed medical condition in connection with the established employment incident.[12]

The Board further finds, however, that the case is not in posture for decision with regard to whether the diagnosed medical condition of sciatica is causally related to the accepted October 28, 2021 employment incident. The case shall therefore be remanded to OWCP for consideration of the medical evidence. Following this and other such further development as deemed necessary, OWCP shall issue a *de novo* decision.

CONCLUSION

The Board finds that appellant has met his burden of proof to establish a diagnosed medical condition in connection with the accepted October 28, 2021 employment incident. The Board further finds, however, that the case is not in posture for decision regarding whether the diagnosed medical condition is causally related to the accepted October 28, 2021 employment incident.

[11] The Board notes that 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); *V.S.*, Docket No. 20-1034 (issued November 25, 2020); *J.G.*, Docket No. 17-1062 (issued February 13, 2018); *Tracy P. Spillane*, 54 ECAB 608 (2003).

[12] *See W.B.*, Docket No. 22-0163 (issued September 16, 2022); *V.S.*, Docket No. 22-0105 (issued July 18, 2022); *A.H.*, Docket No. 20-0730 (issued October 27, 2020); *B.C.*, Docket No. 20-0079 (issued October 16, 2020).

ORDER

IT IS HEREBY ORDERED THAT the December 17, 2021 and April 4, 2022 decisions of the Office of Workers' Compensation Programs are set aside and the case is remanded for further proceedings consistent with this decision of the Board.

Issued: December 13, 2022
Washington, DC

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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