United States Department of Labor
Employees' Compensation Appeals Board

T.D., Appellant	)	
and	)	**Docket No. 22-0884**
	)	**Issued: December 9, 2022**
U.S. POSTAL SERVICE, TRI CITY GAINESVILLE POST OFFICE, Gainesville, VA, 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
JAMES D. McGINLEY, Alternate Judge

JURISDICTION

On May 25, 2022 appellant filed a timely appeal from a March 30, 2022 merit decision 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 her burden of proof to establish a medical condition causally related to the accepted January 11, 2022 employment incident.

FACTUAL HISTORY

On February 2, 2022 appellant, then a 57-year-old rural carrier associate, filed a traumatic injury claim (Form CA-1) alleging that on January 11, 2022 she injured her upper back and left

[1] 5 U.S.C. § 8101 *et seq*.

knee when she stepped onto her vehicle's rear bumper as she exited the vehicle and fell while in the performance of duty. She did not stop work.

On February 2, 2002 OWCP received a duty status report (Form CA-17) and work slip dated January 13, 2022, signed by Elizabeth McLean, a physician assistant.

In a development letter dated February 7, 2022, OWCP notified appellant of the deficiencies of the 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 respond.

Appellant submitted reports dated January 13 and 27, 2022 by Dr. James Ward, a Board-certified orthopedic surgeon. Dr. Ward recounted her history of falling from the rear of her delivery truck on January 11, 2022, with the onset of left knee and lumbar pain. He noted that on January 3, 2002 appellant had slipped on ice and fallen onto her buttocks while in the performance of duty, with intermittent lumbar pain since that incident. On examination, Dr. Ward observed negative straight leg raising tests bilaterally and discomfort with palpation of the medial joint line in the left knee. He diagnosed lumbar spine pain and left knee pain. Dr. Ward held appellant off work through January 27, 2022, then returned her to light-duty work.

On February 17, 2022 Ms. McLean completed a duty status report (Form CA-17) and work slip.

On February 17, 2022 Dr. Christopher J. Brown, a Board-certified orthopedic surgeon treated appellant and recounted her complaints of left knee pain and stiffness. On examination, he observed crepitus with passive range of motion of the left knee, tenderness to palpation along the joint lines of the left knee, and negative straight leg raising tests bilaterally. Dr. Brown diagnosed lumbar spine pain and left knee pain. He administered an intra-articular injection to the left knee and returned appellant to full-duty work.

By decision dated March 30, 2022, OWCP denied appellant's claim. It found that the January 11, 2022 employment incident occurred as alleged, but that the medical evidence submitted was insufficient to establish that she had sustained an injury causally related to the accepted employment incident. OWCP concluded, therefore, that appellant had not met the requirements to establish an injury as defined by FECA.

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 timely filed within the applicable time limitation of FECA,[3] 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

[2] 20 C.F.R. § 10.607(a).

[3] Federal (FECA) Procedure Manual, Part 2 -- Claims, *Reconsiderations*, Chapter 2.1602.4(b) (September 2020).

the employment injury.[4] 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.[5]

To determine if an employee sustained a traumatic injury in the performance of duty, OWCP begins with an analysis of whether fact of injury has been established.[6] Fact of injury consists of two components that must be considered in conjunction with one another. The first component is whether the employee actually experienced the employment incident that allegedly occurred.[7] The second component is whether 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] A physician's opinion on whether there is causal relationship between the diagnosed condition and the implicated employment incident must be based on a complete factual and medical background.[10] Additionally, the physician's opinion must be expressed in terms of a reasonable degree of medical certainty, and must be supported by medical rationale, explaining the nature of the relationship between the diagnosed condition and appellant's specific employment factor(s).[11]

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish a medical condition causally related to the accepted January 11, 2022 employment incident.

Appellant submitted January 13 and 27, 2022 reports by Dr. Ward and a February 17, 2022 report by Dr. Brown diagnosing lumbar spine pain and left knee pain. The Board has consistently held that pain is a symptom and not a compensable medical diagnosis.[12] A medical report lacking

[4] *G.G.*, Docket No. 18-1072 (issued January 7, 2019); *E.R.*, Docket No. 09-0599 (issued June 3, 2009); *Leon D. Faidley, Jr.*, 41 ECAB 104 (1989).

[5] *See* 20 C.F.R. § 10.607(b); *M.H.*, Docket No. 18-0623 (issued October 4 2018); *Charles J. Prudencio*, 41 ECAB 499, 501-02 (1990).

[6] *L.C.*, Docket No. 18-1407 (issued February 14, 2019); *M.L.*, Docket No. 09-0956 (issued April 15, 2010). *See also id.*, at § 10.607(b); *supra* note 3 at Chapter 2.1602.5 (September 2020).

[7] *J.W.*, Docket No. 18-0703 (issued November 14, 2018); *Robert G. Burns*, 57 ECAB 657 (2006).

[8] *J.S.*, Docket No. 16-1240 (issued December 1, 2016); *supra* note 3 at Chapter 2.1602.5(a) (September 2020).

[9] 20 C.F.R. § 10.607(a); *see J.W.*, *supra* note 7; *Alberta Dukes*, 56 ECAB 247 (2005).

[10] *Supra* note 3 at Chapter 2.1602.4 (September 2020); *Veletta C. Coleman*, 48 ECAB 367, 370 (1997).

[11] 20 C.F.R. § 10.607(b); *F.C.*, Docket No. 21-1420 (issued June 29, 2022); *see Debra McDavid*, 57 ECAB 149 (2005).

[12] *J.M.*, Docket No. 21-0077 (issued June 27, 2022); *see B.T.*, Docket No. 22-0022 (issued May 23, 2022); *S.L.*, Docket No. 19-1536 (issued June 26, 2020); *B.P.*, Docket No. 12-1345 (issued November 13, 2012).

a firm diagnosis is of no probative value.[13] As such, the opinions of Dr. Ward and Dr. Brown are insufficient to meet appellant's burden of proof.

Appellant also submitted reports and work slips dated January 13 and February 17, 2022 by Ms. McLean, a physician assistant. The Board has held, however, that medical reports signed solely by a physician assistant, registered nurse, or medical assistant are of no probative value as such healthcare providers are not considered physicians as defined under FECA and are, therefore, not competent to provide medical opinions.[14] Consequently, their medical findings and/or opinions will not suffice for the purpose of establishing entitlement to FECA benefits.[15] As such, Ms. McLean's reports are insufficient to establish appellant's claim.

As the medical evidence of record is insufficient to establish a medical condition causally related to the accepted January 11, 2022 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 medical condition causally related to the accepted January 11, 2022 employment incident.

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

[14] 5 U.S.C. § 8102(2) of FECA provides as follows: (2) physician includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, and osteopathic practitioners within the scope of their practice as defined by State law. 20 C.F.R. § 10.5(t). *See supra* note 3 at 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 S.S.*, Docket No. 21-1140 (issued June 29, 2022) (physician assistants are not considered physicians under FECA and are not competent to provide medical opinions); *George H. Clark*, 56 ECAB 162 (2004) (physician assistants are not considered physicians under FECA).

[15] *S.S.*, *id.*; *J.D.*, Docket No. 21-1422 (issued May 24, 2022).

ORDER

IT IS HEREBY ORDERED THAT the March 30, 2022 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: December 9, 2022
Washington, DC

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

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

James D. McGinley, Alternate Judge
Employees' Compensation Appeals Board