United States Department of Labor
Employees' Compensation Appeals Board

D.R., Appellant	)	
and	)	**Docket No. 22-0921**
	)	**Issued: December 29, 2022**
U.S. POSTAL SERVICE, POST OFFICE, Harrisburg, PA, 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 May 26, 2022 appellant filed a timely appeal from a March 9, 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.[2]

ISSUE

The issue is whether appellant has met her burden of proof to establish a medical condition causally related to the accepted February 24, 2021 employment incident.

[1] 5 U.S.C. § 8101 *et seq*.

[2] The Board notes that, following the March 9, 2022 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*.

FACTUAL HISTORY

On March 3, 2021 appellant, then a 59-year-old letter carrier, filed a traumatic injury claim (Form CA-1) alleging that on February 24, 2021 she injured her right leg, knee, shoulders, back and neck when she slipped and fell, while delivering a parcel in the performance of duty.

In a February 26, 2021 return-to-work note, Shannon Bocchino, a physician assistant, noted a February 24, 2021 date of injury and provided work restrictions of no work over eight hours and no overtime work.

In a March 10, 2021 development letter, OWCP notified appellant of the deficiencies of her claim. It advised her of the type of additional factual and medical evidence needed and provided a questionnaire for her completion. OWCP afforded appellant 30 days to submit the necessary evidence.

OWCP received February 26, 2021 progress notes from Ms. Bocchino, who noted appellant's complaints of right leg pain, right hip pain, and lumbar pain. Ms. Bocchino reviewed February 26, 2021 x-rays of appellant's right femur and right hip and found no evidence of fracture or other acute osseous abnormality.

OWCP also received February 26, 2021 x-rays of the lumbar spine, read by Dr. Matthew Winfield, a Board-certified diagnostic radiologist, which revealed multilevel degenerative changes.

In a March 15, 2021 response to OWCP's development questionnaire, appellant related that on the date of injury she exited her mail truck, started to walk, and slipped on ice which was under snow in a driveway. She noted that she had on proper snowshoes. Appellant asserted that she had reported her injury to her postmaster and continued to work until she had x-rays taken two days later. She noted that she had no symptoms prior to this accident.

In a March 25, 2021 report, Dr. Colin C. Heinle, a Board-certified orthopedic surgeon, indicated that appellant could return to work on March 26, 2021 with shifts limited to eight hours per day.

In progress notes dated March 25, 2021, Dr. Heinle noted that appellant presented with right lumbar, hip, and thigh pain, with a February 24, 2021 date of onset. He noted appellant's history of primary osteoarthritis involving multiple joints; rotator cuff tendonitis on the left; primary osteoarthritis of the left knee; left medial knee pain; history of total left knee arthroplasty; traumatic complete tear of right rotator cuff, subsequent encounter; S/P (supraspinatus) rotator cuff repair; complete tear of right rotator cuff; biceps tendinitis of right shoulder; shoulder stiffness, right; shoulder effusion, right; orthopedic aftercare; tear of right supraspinatus tendon; chronic left shoulder pain; biceps tendinitis of left upper extremity; and primary osteoarthritis of right knee. Dr. Heinle related that appellant was approximately one month status post fall at work, with lower back pain and sacroiliac joint pain. He recommended physical therapy.

In a March 25, 2021 attending physician's report (Form CA-20), Dr. Heinle noted that appellant had significant pain at the right sacroiliac joint and diagnosed right sacroiliac dysfunction. He checked a box marked "Yes" to indicate that the condition was caused or

aggravated by an employment activity and checked a box "No" to indicate that appellant did not have a preexisting injury or disease.

In an April 7, 2021 report, Dr. Brandon Eck, an osteopath Board-certified in family practice, noted that appellant was seen for right sacroiliac joint and ligaments complaints. He administered an injection.

By decision dated April 14, 2021, OWCP denied appellant's claim. OWCP found that the medical evidence of record was insufficient to establish a medical condition causally related to the accepted work incident.

OWCP received a copy of an April 7, 2021 disability certificate from Dr. Eck who advised that appellant was unable to return to work until April 9, 2021. Dr. Eck noted that appellant had undergone a guided-needle placement procedure.

In an April 22, 2021 Form CA-20, Dr. Heinle provided a history of injury as a fall on ice at work. He diagnosed right sacroiliac joint dysfunction and checked a box marked "Yes" indicating that the condition was caused or aggravated by an employment activity. Dr. Heinle noted that "[t]he condition was a direct result of injury sustained at work February 24, 2021."

On April 23, 2021 appellant requested a review of the written record by a representative of OWCP's Branch of Hearings and Review.

OWCP received April 21, May 5, 12, and 25, and June 2, 2021 physical therapy notes and an April 21, 2021 note from a physician assistant.

In a May 5, 2021 report, Dr. Matthew Culp, Board-certified in family practice, noted that he administered an injection to the right hip. He also saw appellant on June 8, 2021 and recommended a magnetic resonance imaging (MRI) scan of the lumbar spine.

A June 22, 2021 MRI scan of the lumbar spine read by Dr. Alex Feinstein, a Board-certified diagnostic radiologist, revealed multilevel degenerative changes, mild-to-moderate central canal stenosis at L4-L5, borderline central canal narrowing at L3-L4, annular bulges at L2-L3 through L4-L5, and a small disc protrusion on the right at T12-L1.

By decision dated July 16, 2021, OWCP's hearing representative modified the April 14, 2021 decision to find that the claim was denied as the medical evidence of record was insufficient to establish a medical diagnosis in connection with the accepted employment incident, rather than causal relationship.

On January 4, 2022 appellant requested reconsideration. She noted that she requested "heartfelt" consideration, as she suffered an on-the-job fall in February 2021 and extreme, excruciating back pain. Appellant denied having a history of back problems.

A July 26, 2021 bone scan of the lumbar spine demonstrated moderate degenerative facet uptake on the right at L4-L5 and mild degenerative facet uptake on the right at L3-L4 and on the left at L5-S1.

OWCP received reports dated July 20, September 21, and October 26, 2021, and January 26, 2022 from Dr. Jackson Liu, Board-certified in physical medicine and rehabilitation. Dr. Liu noted a history of a fall on ice on February 24, 2021 and opined that this was work related. He also noted that appellant had no prior symptoms or treatment and provided diagnoses of osteoarthritis of the lumbar spine with radiculopathy, spinal stenosis of the lumbar region with neurogenic claudication, displacement of the lumbar disc with radiculopathy, and spondylosis of the lumbar region without myelopathy or radiculopathy.

August 16, 2021 hospital records indicated appellant's diagnoses as osteoarthritis of the spine with radiculopathy of the lumbar region and lumbar spondylosis.

October 7, 2021 hospital records noted that appellant underwent an epidural injection for lumbar disc disorder with radiculopathy of the lumbar region.

OWCP received November 11, 2021 hospital records, noting that appellant underwent a lumbar facet injection for spondylosis without myelopathy or radiculopathy of the lumbosacral region.

By decision dated March 9, 2022, OWCP modified the July 16, 2021 decision to find that the medical evidence of record was sufficient to establish a medical diagnosis in connection with the accepted employment incident. However, the claim remained denied as the medical evidence of record was insufficient to establish causal relationship between the diagnosed condition(s) and the accepted employment incident.

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. The first component is that the employee must submit sufficient evidence to establish that he or she actually experienced the

[3] *Supra* note 1.

[4] *See R.P.*, Docket No. 21-0477 (issued July 19, 2022); *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).

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]

In any case where a preexisting condition involving the same part of the body is present and the issue of causal relationship, therefore, involves aggravation, acceleration, or precipitation, the physician must provide a rationalized medical opinion that differentiates between the effects of the work-related injury or disease and the preexisting condition.[10]

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish a medical condition causally related to the accepted February 24, 2021 employment incident.

In support of her claim, appellant submitted several medical reports from Dr. Heinle. In a March 25, 2021 report, he indicated that appellant could return to work on March 26, 2021 with restrictions of shifts limited to eight hours. In progress notes dated March 25, 2021, Dr. Heinle noted that appellant presented with right lumbar, hip, and thigh pain, with a February 24, 2021 date of onset. He also related that appellant was approximately one month status post fall at work, with lower back pain and sacroiliac joint pain. However, Dr. Heinle did not provide an opinion on causal relationship. The Board has held that reports that do not provide an opinion on causal relationship are of no probative value.[11] Therefore, this evidence is insufficient to establish this claim.

In a March 25, 2021 Form CA-20 attending physician's report, Dr. Heinle noted that appellant had significant pain at the right sacroiliac joint and diagnosed right sacroiliac dysfunction. He checked the box "Yes" to indicate that the condition was caused or aggravated by an employment activity. The Board has held that a physician's opinion on causal relationship

[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).

[10] Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3e (January 2013); *R.D.*, Docket No. 18-1551 (issued March 1, 2019).

[11] *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

that consists only of checking a box marked "Yes" in response to a form question, without rationale explaining causal relationship, has limited probative value and is insufficient to establish a claim.[12] Therefore, his report is insufficient to establish the claim.

In an April 22, 2021 Form CA-20, Dr. Heinle diagnosed right sacroiliac joint dysfunction and checked a box marked "Yes" to indicate that the condition was caused or aggravated by appellant's federal employment. He provided a history of injury as a fall on ice at work and explained "[t]he condition was a direct result of injury sustained at work February 24, 2021." While Dr. Heinle opined that appellant's right sacroiliac joint dysfunction condition was caused by the work incident, he failed to provide a rationalized medical opinion supporting causation. The Board has held that a medical opinion should offer a medically-sound and rationalized explanation by the physician of how the specific employment incident physiologically caused or aggravated the diagnosed conditions.[13] Medical evidence which does not explain the nature of the relationship between the diagnosed condition and the specific employment incident is insufficient to meet the claimant's burden of proof.[14] As such, this report from Dr. Heinle are insufficient to meet appellant's burden of proof.

Appellant also submitted reports from Dr. Liu dated July 20, September 21, and October 26, 2021 and January 26, 2022. Dr. Liu noted a history of a fall on ice on February 24, 2021 and opined that it was work related. However, he did not provide rationale explaining his conclusory opinion. The Board has held that a medical opinion is of limited probative value if it is conclusory in nature.[15] Additionally, the Board has held that a well-rationalized opinion is particularly warranted when there is a history of preexisting conditions, as in this case.[16] Consequently, Dr. Liu's reports are insufficient to establish appellant's claim.

In an April 7, 2021 report, Dr. Eck noted that appellant was seen for right sacroiliac joint and ligaments and provided an injection under local anesthesia. An April 7, 2021 disability certificate from Dr. Eck advised that appellant was unable to return to work until April 9, 2021, and noted that he provided a guided-needle placement procedure. Dr. Eck, however, did not provide an opinion on causation. As previously noted, a report which does not offer an opinion regarding causal relationship is insufficient to establish the claim.[17]

[12] *J.K.*, Docket No. 20-0527 (issued May 24, 2022); *J.K.*, Docket No. 20-0590 (issued July 17, 2020); *J.A.*, Docket No. 17-1936 (issued August 13, 2018); *Donald W. Long*, 41 ECAB 142 (1989); *Lillian M. Jones*, 34 ECAB 379, 381 (1982).

[13] *See V.D.*, Docket No. 20-0884 (issued February 12, 2021); *Y.D.*, Docket No. 16-1896 (issued February 10, 2017).

[14] *T.L.*, Docket No. 18-0778 (issued January 22, 2020); *Y.S.*, Docket No. 18-0366 (issued January 22, 2020); *Victor J. Woodhams*, *supra* note 9.

[15] *See R.B.*, Docket No. 19-1527 (issued July 20, 2020); *R.S.*, Docket No. 19-1774 (issued April 3, 2020).

[16] Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3e (January 2013); *R.D.*, Docket No. 18-1551 (issued March 1, 2019).

[17] *Supra* note 11.

A May 5, 2021 report from Dr. Culp noted that he had provided appellant with a right hip injection and recommended an MRI scan of the lumbar spine; however, he did not provide a diagnosis or opinion on causation. Dr. Culp's report is, therefore, insufficient to establish causal relationship.[18]

OWCP received August 16, 2021 hospital records with diagnoses of osteoarthritis of the spine with radiculopathy of the lumbar region and lumbar spondylosis; October 7, 2021 hospital records noting that appellant underwent an epidural injection for lumbar disc disorder with radiculopathy of the lumbar region; and November 11, 2021 hospital records noting that appellant underwent a lumbar facet injection for spondylosis without myelopathy or radiculopathy of the lumbosacral region. As noted above, medical reports which do not offer an opinion on causal relationship are of no probative value and, thus, are insufficient to establish appellant's claim.[19]

OWCP received February 26 and April 21, 2021 physician assistant notes and April 21, May 5, 12, and 25, and June 2, 2021 physical therapy notes. Physician assistants and physical therapists, however, are not considered physicians as defined under FECA.[20] Consequently, their medical findings and/or opinions will not suffice for purposes of establishing entitlement to FECA benefits.[21]

The record also contains diagnostic studies including February 26, 2021 x-rays of the right femur and right hip, a June 22, 2021 MRI of the lumbar spine, and a July 26, 2021 bone scan of the lumbar spine. The Board has held that diagnostic studies, standing alone, lack probative value as they do not address whether the employment incident caused any of the diagnosed conditions.[22]

As the medical evidence of record is insufficient to establish causal relationship between her diagnosed medical conditions and the accepted February 24, 2021 employment incident, the Board finds that she 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.

[18] *Id*.

[19] *Id*.

[20] 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* 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 P.D.*, Docket No. 21-0920 (issued January 12, 2022).

[21] *Id*.

[22] *R.O.*, Docket No. 20-1243 (issued May 28, 2021); *V.L.*, Docket No. 20-0884 (issued February 12, 2021).

CONCLUSION

The Board finds that appellant has not met her burden of proof to establish a medical condition causally related to the accepted February 24, 2021 employment incident.

ORDER

IT IS HEREBY ORDERED THAT the March 9, 2022 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: December 29, 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