United States Department of Labor
Employees' Compensation Appeals Board

P.D., Appellant	)	
and	)	**Docket No. 21-0920**
	)	**Issued: January 12, 2022**
DEPARTMENT OF VETERANS AFFAIRS, BUFFALO VA MEDICAL CENTER, Buffalo, NY, Employer	)	

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

Case Submitted on the Record

DECISION AND ORDER

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

JURISDICTION

On May 24, 2021 appellant filed a timely appeal from an April 8, 2021 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 diagnosed medical condition causally related to the accepted April 2, 2019 employment incident.

FACTUAL HISTORY

On April 8, 2019 appellant, then a 43-year-old nurse, filed a traumatic injury claim (Form CA-1) alleging that on April 2, 2019 she injured her head and lower back when a door closed on

[1] 5 U.S.C. § 8101 *et seq*.

her as she was walking into the employing establishment while in the performance of duty. She noted that the door struck her head and compressed her neck and back, causing numbness and pain. Appellant stopped work on the date of injury and returned to work on April 8, 2019.

In a September 10, 2020 development letter, OWCP informed appellant of the deficiencies in her claim. It advised her of the type of factual and medical evidence necessary to establish her claim and afforded her 30 days to provide the necessary evidence.

OWCP subsequently received an April 2, 2019 report, wherein Crystal Crossett, a physician assistant, noted that appellant presented to the emergency department with neck and back pain after sustaining a work-related injury. Appellant reported that she was walking under an overhead door at work when it closed and struck her in the front of her head, causing her head to be thrown backward and making her lose her footing. She denied falling all the way to the ground or losing consciousness. Ms. Crossett conducted a physical examination and diagnosed back pain and cervical strain.

An April 2, 2019 computerized tomography (CT) scan of the cervical spine revealed no acute cervical spine pathology. A lumbar spine x-ray of even date also revealed normal results.

By decision dated October 15, 2020, OWCP denied appellant's traumatic injury claim, finding that the medical evidence of record was insufficient to establish a diagnosis causally related to the accepted April 2, 2019 employment incident. It concluded, therefore, that the requirements had not been met to establish an injury as defined under FECA.

OWCP continued to receive evidence. An April 2, 2019 unsigned emergency room report related appellant's complaint that as she was walking into the employing establishment, a garage door came down and struck her head, pushing her backward and hyperextending her neck.

On January 12, 2021 appellant requested reconsideration.

By decision dated April 8, 2021, OWCP denied modification of the prior decision.

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 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 the

[2] *Id*.

[3] *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).

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 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. 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. The second component is whether the employment incident caused a personal injury.[6]

The medical evidence required to establish a causal relationship between a claimed specific condition and an employment incident is rationalized medical opinion evidence.[7] 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.[8]

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish a diagnosed medical condition causally related to the accepted April 2, 2019 employment incident.

Appellant submitted an April 2, 2019 unsigned emergency room report. . The Board has held that reports that are unsigned or bear an illegible signature cannot be considered probative medical evidence as the author cannot be identified as a physician.[9] Thus, this report is insufficient to establish appellant's claim.

Appellant also submitted an April 2, 2019 report from Ms. Crossett, a physician assistant. The Board has long held that certain healthcare providers such as physician assistants, nurse practitioners, physical therapists, and social workers are not considered physician[s] as defined

[4] *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).

[5] *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).

[6] *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).

[7] *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).

[8] *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).

[9] *J.E.*, Docket No. 21-0956 (issued November 23, 2021); *Merton J. Sills*, 39 ECAB 572, 575 (1988).

under FECA.[10] Consequently, their medical findings and/or opinions will not suffice for purposes of establishing entitlement to FECA benefits.[11]

The remaining medical evidence includes diagnostic studies dated April 2, 2019. 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.[12] Thus, this evidence is also insufficient to meet appellant's burden.

As the record lacks rationalized medical evidence establishing a diagnosed medical condition causally related to the accepted April 2, 2019 employment incident, the Board finds that appellant has not met her burden of proof to establish her claim.

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 April 2, 2019 employment incident.

[10] 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, C*ausal 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.C.*, Docket No. 20-1510 (issued April 23, 2021).

[11] *Id*.

[12] *M.B.*, Docket No. 19-1638 (issued July 17, 2020); *T.S.*, Docket No. 18-0150 (issued April 12, 2019).

ORDER

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

Issued: January 12, 2022
Washington, DC

Janice B. Askin, Judge
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Alternate Judge
Employees' Compensation Appeals Board

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