United States Department of Labor
Employees' Compensation Appeals Board

B.T., Appellant	)	
and	)	**Docket No. 22-0022**
	)	**Issued: May 23, 2022**
DEPARTMENT OF HOMELAND SECURITY, U.S. CUSTOMS & BORDER PATROL, Yuma AZ, 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
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On October 5, 2021 appellant filed a timely appeal from a September 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 his burden of proof to establish a medical condition causally related to the accepted March 3, 2020 employment incident.

FACTUAL HISTORY

On March 11, 2020 appellant, then a 28-year-old border patrol agent, filed a traumatic injury claim (Form CA-1) alleging that on March 3, 2020 he strained his right hip, knee, and ankle

[1] 5 U.S.C. § 8101 *et seq*.

when participating in all-terrain vehicle (ATV) training while in the performance of duty. He did not stop work.

In support of his claim, appellant submitted a medical report dated March 26, 2020 from Dr. Rodney D. Henderson, a Board-certified orthopedic surgeon. Dr. Henderson related that appellant's injury occurred during training on an ATV and that appellant had pain in his right knee as well as radiating pain from his right hip to right ankle. He diagnosed right knee and right hip pain and stated that appellant's "workplace accident IS the prevailing factor in causing [appellant's] injury resulting in disability." (Emphasis in the original.)

On April 13, 2020 OWCP authorized a course of physical therapy, as recommended by Dr. Henderson. Physical therapy reports were thereafter received commencing April 15, 2020.

In a development letter dated June 22, 2020, OWCP advised appellant of the deficiencies in his claim. It noted the type of factual and medical evidence needed and provided him with a questionnaire. OWCP afforded appellant 30 days to submit the necessary evidence.

In medical reports dated April 15, May 6, and June 10, 2020, Dr. Henderson related that appellant's hip pain had improved. He opined that appellant's injuries were caused by the workplace accident and diagnosed right knee pain, right hip pain, and plantar fasciitis.

Appellant submitted a response to OWCP's development questionnaire dated July 20, 2020. He explained that he was injured when practicing tactical dismounts, which included jumping off an ATV. Appellant also attested that he had no similar disabilities or symptoms prior to the incident.

By decision dated August 5, 2020, OWCP accepted that the March 3, 2020 employment incident occurred, as alleged, but denied appellant's claim as causal relationship was not established between a diagnosed medical condition and the accepted employment incident.

In reports dated July 9 and August 27, 2020, Dr. Henderson related that appellant was seen for a follow up for his right knee pain and plantar fasciitis.

On August 27, 2020 appellant requested a telephonic hearing before a representative of OWCP's Branch of Hearings and Review, which was held on December 10, 2020. The hearing representative afforded appellant 30 days to submit additional evidence.

Appellant submitted two letters dated January 4 and 29, 2021, which explained that he was having difficulty obtaining the requisite medical documentation.

By decision dated February 18, 2021, OWCP's hearing representative affirmed the August 5, 2020 decision.

OWCP received a letter dated January 26, 2021 from Dr. Henderson where he opined that the constant use and operation of an off-road four-wheeler quad-type vehicle increases the risk for agents developing repetitive injuries without apparent traumatic accidents. Dr. Henderson reported that the injury in the right hip, knee, and foot sprain and pain. He concluded that the injury was casually related to the event while performing field training.

On June 10, 2021 appellant requested reconsideration of OWCP's February 18, 2021 decision.

By decision dated September 8, 2021, OWCP denied modification.

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 FECA, that the claim was timely filed within the applicable time limitation period 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 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 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, 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.[6]

The medical evidence required to establish 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]

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[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).

[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).

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish a medical condition causally related to the accepted March 3, 2020 employment incident.

In a January 26, 2021 report, Dr. Henderson related diagnoses of right hip, knee, and foot sprain and pain which he concluded were causally related to the employment incident. He explained that the conditions occurred while appellant was performing field training on March 26, 2020. In reports dated April 15, May 6, June 10, July 9, and August 27, 2020, Dr. Henderson listed appellant's diagnosis as plantar fasciitis and stated that it was caused by appellant's employment incident. A medical opinion is of limited value if it is conclusory in nature.[9] While Dr. Henderson provided diagnoses and an opinion on causal relationship, his reports did not offer any medical rationale to explain how the accepted employment incident would have caused appellant's diagnosed conditions.[10] The Board has held that a medical opinion should offer a medically-sound explanation of how the specific employment incident physiologically caused the diagnosed condition. As these reports lacked any medical rationale explaining how the accepted employment incident caused the diagnosed conditions, they were insufficient to establish causal relationship.

In a report dated March 26, 2020, Dr. Henderson noted diagnoses of right knee pain and right hip pain. The Board has held that pain is a symptom and not a compensable medical diagnosis.[11] For this reason, Dr. Henderson's report is insufficient to meet appellant's burden of proof.

Progress notes from physical therapists were also received. However, physical therapists are not considered physicians as defined under FECA.[12] As such, this evidence is also of no probative value and insufficient to establish the claim.

As there is no rationalized medical evidence of record establishing a condition causally related to the accepted employment incident, the Board finds that appellant has not met his burden of proof.

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

[10] *T.W.*, Docket No. 20-0767 (issued January 13, 2021); *see H.A.*, Docket No. 18-1466 (issued August 23, 2019); *L.R.*, Docket No. 16-0736 (issued September 2, 2016).

[11] *See S.L.*, Docket No. 19-1536 (issued June 26, 2020); *D.Y.*, Docket No. 20-0112 (issued June 25, 2020).

[12] Section 8101(2) of FECA provides that the term 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 physical therapists are not competent to render a medical opinion under FECA); *see also R.L.*, Docket No. 19-0440 (issued July 8, 2019) (a physical therapist is not considered a physician under FECA).

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 his burden of proof to establish a medical condition causally related to the accepted March 3, 2020 employment incident.

ORDER

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

Issued: May 23, 2022
Washington, DC

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

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

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