United States Department of Labor
Employees' Compensation Appeals Board

S.G., Appellant	)	
and	)	**Docket No. 23-0552**
	)	**Issued: August 28, 2023**
U.S. POSTAL SERVICE, IOLA POST OFFICE, Iola, WI, 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
JANICE B. ASKIN, Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On March 13, 2023 appellant filed a timely appeal from a March 7, 2023 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 the case.

ISSUE

The issue is whether appellant has met her burden of proof to establish a diagnosed medical condition in connection with the accepted December 15, 2022 employment incident.

FACTUAL HISTORY

On January 25, 2023 appellant, then a 33-year-old city sales, services, and distribution associate, filed a traumatic injury claim (Form CA-1) alleging that on December 15, 2022 she injured her lower back when involved in a motor vehicle collision (MVC), which occurred while

[1] 5 U.S.C. § 8101 *et seq*.

in the performance of duty. On the reverse side of the claim form, appellant's supervisor acknowledged that she was injured in the performance of duty. An accompanying report of work status (Form CA-3) indicated that she stopped work on December 15, 2022 and returned to work on December 16, 2022.

In support of her claim, appellant submitted a December 15, 2022 work restriction note from Dr. Michael Eng, Board-certified in emergency medicine, releasing appellant for work on December 19, 2022 with restrictions on bending, twisting, and lifting.

The employing establishment completed and signed an authorization for examination and/or treatment (Form CA-16) on January 30, 2023.

In a development letter dated January 30, 2023, OWCP informed appellant of the deficiencies of her claim. It advised her of the type of factual and medical evidence needed and provided a questionnaire for her completion. OWCP afforded appellant 30 days to submit the necessary evidence.

OWCP received additional evidence. In a December 15, 2022 report, Dr. Eng related appellant's history of injury and noted that she noticed sharp and aching pain diffusely across her low back when getting out of her vehicle after the MVC. His physical examination demonstrated no abnormalities. A lumbosacral spine x-ray revealed early degenerative disc disease at L4-5, and a pelvis x-ray revealed no abnormalities. Dr. Eng noted an MVC and diagnosed acute low back pain.

Appellant submitted a police report documenting the December 15, 2022 MVC, including a December 16, 2022 written statement in which she described the incident and the immediate aftermath. She responded to OWCP's development questionnaire on February 7, 2023, providing details about the MVC.

By decision dated March 7, 2023, OWCP accepted that the December 15, 2022 employment incident occurred, as alleged, but denied appellant's claim, finding that she had not submitted medical evidence containing a medical diagnosis by a physician in connection with her accepted employment incident. It concluded, therefore, that the requirements had not been met 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 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 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

[2] *Supra* note 1.

[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).

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 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 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 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 in connection with the accepted December 15, 2022 employment incident.

In support of her claim, appellant submitted a report dated December 15, 2022, wherein Dr. Eng diagnosed acute low back pain. However, the Board has held that pain is a description of a symptom, not a diagnosis of a medical condition.[9] It is appellant's burden of proof to obtain and submit medical documentation containing a firm diagnosis causally related to the accepted employment incident.[10] This report is, therefore, insufficient to meet her burden of proof.

Appellant also submitted a December 15, 2022 work restriction note from Dr. Eng, in which he did not provide a diagnosis. The Board has held that medical reports lacking a firm

[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] *See K.S.*, Docket No. 19-1433 (issued April 26, 2021); *S.L.*, Docket No. 19-1536 (issued June 26, 2020); *D.Y.*, Docket No. 20-0112 (issued June 25, 2020).

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

diagnosis and a rationalized medical opinion regarding causal relationship are of no probative value.[11] Therefore, this evidence is insufficient to meet appellant's burden of proof.[12]

As the medical evidence of record is insufficient to establish a diagnosed medical condition in connection with the accepted December 15, 2022 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 in connection with the accepted December 15, 2022 employment incident.[13]

[11] *See A.C.*, Docket No. 20-1510 (issued April 23, 2021); *J.P.*, *id.*; *R.L.*, *id*.

[12] *See J.P.*, Docket No. 18-0349 (issued December 30, 2019); *D.D.*, 57 ECAB 734 (2006).

[13] The Board notes that the employing establishment executed a Form CA-16. 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); *J.G.*, Docket No. 17-1062 (issued February 13, 2018); *Tracy P. Spillane*, 54 ECAB 608 (2003).

ORDER

IT IS HEREBY ORDERED THAT the March 7, 2023 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: August 28, 2023
Washington, DC

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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