

**United States Department of Labor
Employees' Compensation Appeals Board**

J.Q., Appellant)

and)

U.S. POSTAL SERVICE, GRAND RAPIDS)
PROCESSING & DISTRIBUTION CENTER,)
Grand Rapids, MI, Employer)
_____)

**Docket No. 24-0142
Issued: April 23, 2024**

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 December 4, 2023 appellant filed a timely appeal from a June 8, 2023 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act¹ (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 diagnosed medical condition in connection with the accepted July 28, 2022 employment incident.

FACTUAL HISTORY

On August 1, 2022 appellant, then a 66-year-old mail handler, filed a traumatic injury claim (Form CA-1) alleging that on July 28, 2022 he sustained a back strain when he attempted to lift an

¹ 5 U.S.C. § 8101 *et seq.*

all-purpose container onto its wheels which slipped off the forklift and fell back toward him while in the performance of duty. He stopped work on July 28, 2022 and worked intermittently thereafter.

In an August 4, 2022 development letter, OWCP informed appellant of the deficiencies in his claim. It advised him of the type of factual and medical evidence needed and provided a questionnaire for his completion. OWCP afforded appellant 30 days to submit the necessary evidence.

OWCP received additional evidence. In a July 31, 2022 authorization for examination and/or treatment (Form CA-16), the employing establishment authorized appellant to seek medical care with Dr. Christian Vanderkaay, Board-certified in family medicine. In an attending physician's report, Part B of the Form CA-16, completed on August 3, 2022, Dr. Vanderkaay reported that appellant experienced low back pain while at work. He diagnosed acute low back pain. Dr. Vanderkaay checked a box marked "Yes" indicating that the diagnosed condition was caused or aggravated by the described employment activity. He opined that appellant was totally disabled from work from August 1 through 6, 2022 and partially disabled from August 7 through 20, 2022. In a duty status report (Form CA-17) of the same date, Dr. Vanderkaay noted clinical findings of right lower back tenderness and diagnosed acute low back pain. He advised that appellant could return to work with restrictions on August 7, 2022.²

In support of his claim, appellant submitted an x-ray of the lumbar spine dated August 9, 2022, which revealed mild levoconvex curvature of the lumbar spine, mild grade 1 retrolisthesis of L3-4 and L4-5, moderate-to-severe intervertebral disc space narrowing at L3-4 and L4-5, multilevel degenerative endplate changes, and moderate facet arthropathy from L3 to S1.

By decision dated September 28, 2022, OWCP accepted that the July 28, 2022 employment incident occurred as alleged. However, it denied appellant's traumatic injury claim, finding that he had not submitted medical evidence containing a diagnosis in connection with the accepted July 28, 2022 employment incident. OWCP concluded, therefore, that the requirements had not been met to establish an injury as defined under FECA.

OWCP received additional evidence. On August 9, 2022 Dr. Vanderkaay diagnosed acute low back pain, unspecified back pain laterally, and possible sciatica. Appellant underwent an x-ray of the lumbar spine that revealed moderate-to-severe multilevel degenerative changes of the lumbar spine. On September 7, 2022 Dr. Vanderkaay continued appellant's work restrictions for four to six hours a day with a return to full duty on October 8, 2022. In a report dated September 8, 2022, he noted that appellant presented with low back pain that began near the end of July when he was involved in an industrial accident. Appellant reported that this accident occurred when he lifted heavy equipment and the equipment fell from a forklift, leaving him holding the entire weight. Dr. Vanderkaay noted in the examination findings portion of the report, "[appellant] presents with pain and tenderness with palpation to the lumbar paraspinal muscles bilaterally. [Appellant] presents with a flexed rotated segment right at L2-3." In the assessment portion of the

² On August 7, 2022 the employing establishment offered appellant a limited-duty position as a mail handler subject to restrictions. He accepted the position and returned to work on August 7, 2022. On August 21, 2022 appellant returned to work without restrictions.

report, he indicated that appellant's "symptoms are consistent with trauma and mechanical dysfunction."

On October 10, 2022 Dr. Benjamin Harper, a Board-certified orthopedist, treated appellant for aftercare following a right hip joint replacement. He noted that appellant reported he had an incident at work when he was helping to lift a 700-pound container and the container slipped, forcing him into a bending position.

On October 19, 2022 Emily Sparks, a physician assistant, treated appellant, for an acute lower back injury related to a workplace event that occurred on July 28, 2022. She requested that appellant be excused from work on October 19, 2022.

On October 24, 2022 appellant requested a review of the written record by a representative of OWCP's Branch of Hearings and Review.

By decision dated March 8, 2023, OWCP's hearing representative set aside the decision dated September 28, 2022 and remanded the case for further development. The hearing representative found that appellant had submitted medical evidence containing a diagnosis in connection with the accepted July 28, 2022 employment incident; however, appellant's claim was denied because the medical evidence of record was insufficient to establish causal relationship between her diagnosed conditions and the accepted July 28, 2022 employment incident. OWCP was instructed to reissue the development letter to appellant's correct mailing address as the previous letters were returned as undeliverable.

In a development letter dated March 16, 2023, OWCP informed appellant of the deficiencies of his claim. It advised him of the type of factual and medical evidence needed. OWCP afforded appellant 60 days to submit the necessary evidence.

In a development letter dated April 19, 2023, OWCP informed appellant that no additional information was provided in response to the March 16, 2023 letter. It afforded him 30 days to submit the necessary evidence.

OWCP received additional evidence. In a Form CA-20 dated April 14, 2023, Dr. Vanderkaay noted findings of lumbar pain beginning in August 2022 and severe degenerative changes. He listed a March 13, 2023 date of injury, diagnosed acute low back pain, and checked a box marked "Yes" indicating that appellant's condition had been caused or aggravated by an employment activity. Dr. Vanderkaay added a notation indicating that appellant lifted heavy items at work. In an amended Form CA-20 dated May 7, 2023, he diagnosed acute low back strain and crossed out the previous diagnosis of acute low back pain.

By decision dated June 8, 2023, OWCP accepted that the July 28, 2022 employment incident occurred as alleged. However, it denied appellant's traumatic injury claim, finding that evidence of record was insufficient to establish a diagnosed medical condition in connection with the accepted July 28, 2022 employment incident. OWCP concluded, therefore, that the requirements had not been met to establish an injury as defined under FECA.

LEGAL PRECEDENT

An employee seeking benefits under FECA³ 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. 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. Second, the employee must submit sufficient evidence to establish that the employment incident caused an injury.⁷

The medical evidence required to establish a causal relationship 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 incident identified by the employee.⁹

ANALYSIS

The Board finds that appellant has met his burden of proof to establish a diagnosed medical condition in connection with the accepted July 28, 2022 employment incident.

In support of his claim, appellant submitted a Form CA-20 dated May 7, 2023, wherein Dr. Vanderkaay listed a date of injury of March 3, 2023 and provided a diagnosis of acute low back strain in connection with the accepted employment incident. The Board, therefore, finds that

³ *Supra* note 1.

⁴ *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).

⁷ *T.J.*, Docket No. 19-0461 (issued August 11, 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).

based on the report of Dr. Vanderkaay, appellant has met his burden of proof to establish a diagnosed medical condition in connection with the accepted July 28, 2022 employment incident.

As the medical evidence of record establishes a diagnosed medical condition, the case must be remanded for consideration of the medical evidence with regard to the issue of causal relationship.¹⁰ Following this and other such further development as deemed necessary, OWCP shall issue a *de novo* decision.

CONCLUSION

The Board finds that appellant has met his burden of proof to establish a diagnosed medical condition in connection with the accepted July 28, 2022 employment incident.¹¹

ORDER

IT IS HEREBY ORDERED THAT the June 8, 2023 decision of the Office of Workers' Compensation Programs is reversed. The case is remanded to OWCP for further proceedings consistent with this decision of the Board.

Issued: April 23, 2024
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

¹⁰ See *F.D.*, Docket No. 21-1045 (issued December 22, 2021).

¹¹ The Board notes that the employing establishment issued 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).