United States Department of Labor
Employees' Compensation Appeals Board

T.B., Appellant	)	
and	)	**Docket No. 24-0733**
	)	**Issued: August 8, 2024**
U.S. POSTAL SERVICE, NORTH HOUSTON POST OFFICE, North Houston, TX, Employer	)	

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

Case Submitted on the Record

DECISION AND ORDER

Before:
JANICE B. ASKIN, Judge
VALERIE D. EVANS-HARRELL, Alternate Judge
JAMES D. McGINLEY, Alternate Judge

JURISDICTION

On June 30, 2024 appellant filed a timely appeal from a May 13, 2024 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 diagnosed medical condition in connection with the accepted March 9, 2024 employment incident.

FACTUAL HISTORY

On March 9, 2024 appellant, then a 33-year-old city carrier/city delivery specialist, filed a traumatic injury claim (Form CA-1) alleging that he sustained a back injury on that day when his mail delivery truck was struck from behind by two vehicles while in the performance of duty. On the reverse side of the claim form, appellant's supervisor acknowledged that appellant was injured

[1] 5 U.S.C. § 8101 *et seq*.

in the performance of duty. The form indicated that appellant stopped work on March 9, 2024, and returned to work on March 11, 2024.

In a development letter dated March 12, 2024, OWCP advised appellant of the deficiencies in his claim. It informed him that additional factual and medical evidence was necessary to establish his claim. OWCP provided a questionnaire for appellant's completion and an attending physician's report form (Form CA-20) with instructions to the physician for how to complete the form. It afforded him 60 days to respond.

OWCP thereafter received a March 9, 2024 hospital report indicating that appellant sought treatment from Dr. John Pinkstaff, a Board-certified emergency medicine specialist. Discharge instructions and an information sheet on acute low back pain were included.

OWCP received return-to-work notes dated March 9, 2024 signed by a nurse and dated March 19, 2024 from a nurse practitioner.

A March 22, 2024 duty status report (Form CA-17), bearing an illegible signature, noted the history of appellant's claimed March 9, 2024 employment incident, and diagnoses of lumbar strain/contusion.

OWCP also received a signed March 18, 2024 authorization for treatment from the employing establishment (Form CA-16) for the March 9, 2024 date of injury.

In a follow-up letter dated April 8, 2024, OWCP advised that it had conducted an interim review, and the evidence remained insufficient to establish his claim. It noted that he had 60 days from the March 12, 2024 letter to submit the requested supporting evidence. OWCP further advised that if the evidence was not received during this time, it would issue a decision based on the evidence contained in the record.

In a March 18, 2024 statement, appellant described the events of March 9, 2024.

In a March 20, 2024 Form CA-20, Dr. Pinkstaff indicated that on March 9, 2004 appellant was examined for a low back pain as a result of a motor vehicle collision. A diagnosis of low back pain was provided.

By decision dated May 13, 2024, OWCP found that the March 9, 2024 employment incident had occurred as alleged, but denied appellant's traumatic injury claim, finding that the evidence of record was insufficient to establish a diagnosed medical condition in connection with the 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 of FECA, that an injury was sustained in the performance of duty as alleged, and that

[2] *Id.*

any disability or medical condition for which compensation is claimed is causally related to the employment injury.[3] 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.[4]

To determine whether an employee 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 is whether the employee actually experienced the employment incident at the time and place, and in the manner alleged. The second component is whether the employment incident caused an injury.[5]

Causal relationship is a medical question that requires rationalized medical opinion evidence to resolve the issue.[6] A physician's opinion on whether there is a causal relationship between the diagnosed condition and the employment injury must be based on a complete factual and medical background.[7] Additionally, the physician's opinion must be expressed in terms of a reasonable degree of medical certainty and must be supported by medical rationale, explaining the nature of the relationship between the diagnosed condition and appellant's employment injury.[8]

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish a diagnosed medical condition in connection with the accepted March 9, 2024 employment incident.

In support of his claim, appellant submitted a March 20, 2024 Form CA-20 wherein Dr. Pinkstaff related that he had examined appellant on March 9, 2004 for a low back pain as a result of a motor vehicle collision. Dr. Pinkstaff diagnosed low back pain. The Board has held that pain is a description of a symptom, not a clear diagnosis of a medical condition.[9] A medical report lacking a firm diagnosis and rationalized medical opinion regarding causal relationship is of no probative value.[10] This report is, therefore, insufficient to establish appellant's claim.

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[3] *J.M.*, Docket No. 17-0284 (issued February 7, 2018); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

[4] *B.H.*, Docket No. 20-0777 (issued October 21, 2020); *K.M.*, Docket No. 15-1660 (issued September 16, 2016); *L.M.*, Docket No. 13-1402 (issued February 7, 2014); *Delores C. Ellyett*, 41 ECAB 992 (1990).

[5] *M.H.*, Docket No. 18-1737 (issued March 13, 2019); *John J. Carlone*, 41 ECAB 354 (1989); *see* 5 U.S.C. § 8101(5) (injury defined); 20 C.F.R. §§ 10.5(ee), 10.5(q) (traumatic injury and occupational disease defined, respectively).

[6] *R.P.*, Docket No. 21-1189 (issued July 29, 2022); *E.M.*, Docket No. 18-1599 (issued March 7, 2019); *Robert G. Morris*, 48 ECAB 238 (1996).

[7] *R.P.*, *id.*; *F.A.*, Docket No. 20-1652 (issued May 21, 2021); *M.V.*, Docket No. 18-0884 (issued December 28, 2018); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

[8] *Id.*

[9] *S.P.*, Docket No. 24-0409 (issued June 27, 2024); *D.R.*, Docket No. 18-1408 (issued March 1, 2019); *D.A.*, Docket No. 18-0783 (issued November 8, 2018).

[10] *See B.R.*, Docket No. 23-0546 (issued August 29, 2023); *J.E.*, Docket No. 21-0810 (issued April 13, 2023); *P.C.*, Docket No. 18-0167 (issued May 7, 2019).

Appellant submitted a March 22, 2024 Form CA-17, bearing an illegible signature, which noted the history of the March 9, 2024 employment incident and diagnosed lumbar strain/contusion. The Board has held that medical evidence containing an illegible signature, or which is unsigned, has no probative value, as it is not established that the author is a physician.[11] This report is, therefore, insufficient to establish appellant's claim.

OWCP also received work status notes dated March 9 and 19, 2024 from a nurse and a nurse practitioner. However, certain health care providers such as physician assistants, nurses, nurse practitioners, physical therapists, and social workers are not considered "physician[s]" as defined under FECA and their reports do not constitute competent medical evidence.[12] These notes are thus of no probative value and are insufficient to establish appellant's claim.

As the evidence of record does not include a medical report establishing a diagnosed medical condition in connection with the accepted March 9, 2024 employment incident, the Board finds that appellant has not met his 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.

CONCLUSION

The Board finds that appellant has not met his burden of proof to establish a diagnosed medical condition in connection with the accepted March 9, 2024 employment incident.[13]

[11] *G.D.*, Docket No. 22-0555 (issued November 18, 2022); *T.C.*, Docket No. 21-1123 (issued April 5, 2022); *Z.G.*, Docket No. 19-0967 (issued October 21, 2019); *see R.M.*, 59 ECAB 690 (2008); *Merton J. Sills*, 39 ECAB 572, 575 (1988); *Bradford L. Sullivan*, 33 ECAB 1568 (1982).

[12] 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, *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 A.F.*, Docket No. 24-0469 (issued June 24, 2924) (a nurse practitioner is not considered a physician as defined under FECA); *H.S.*, Docket No. 20-0939 (issued February 12, 2021) (physician assistants are not considered physicians as defined under FECA).

[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); *T.H.*, Docket No. 23-0811 (issued February 13, 2024); *J.G.*, Docket No. 17-1062 (issued February 13, 2018); *Tracy P. Spillane*, 54 ECAB 608 (2003).

ORDER

IT IS HEREBY ORDERED THAT the May 13, 2024 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: August 8, 2024
Washington, DC

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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

James D. McGinley, Alternate Judge
Employees' Compensation Appeals Board