

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

A.R., Appellant)	
)	
and)	Docket No. 24-0928
)	Issued: December 4, 2024
U.S. POSTAL SERVICE, WILMINGTON BOX)	
POST OFFICE, Wilmington, DE, 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 September 16, 2024 appellant filed a timely appeal from a June 11, 2024 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.²

ISSUE

The issue is whether appellant has met his burden of proof to establish a medical condition causally related to the accepted February 9, 2024 employment incident.

¹ 5 U.S.C. § 8101 *et seq.*

² The Board notes that, following the June 11, 2024 decision, appellant submitted additional evidence to OWCP. However, the Board's *Rules of Procedure* provides: "The Board's review of a case is limited to the evidence in the case record that was before OWCP at the time of its final decision. Evidence not before OWCP will not be considered by the Board for the first time on appeal." 20 C.F.R. § 501.2(c)(1). Thus, the Board is precluded from reviewing this additional evidence for the first time on appeal. *Id.*

FACTUAL HISTORY

On March 4, 2024 appellant, then a 32-year-old motor vehicle operator, filed a traumatic injury claim (Form CA-1) alleging that on February 9, 2024 he sustained a back injury when he attempted to lift two heavy pallets while in the performance of duty. He did not stop work.

In a March 5, 2024 report, Saumya Mathew, a physician assistant, reported that appellant complained of injury to the neck, lower back, hips, and knees after he was using a pallet jack to move heavy pallets onto trucks on February 9, 2024. She provided physical examination findings and diagnosed lumbar strain, cervical strain, and strain of the hips and thighs. In a March 5, 2024 duty status report (Form CA-17), Ms. Mathew diagnosed lumbar strain, cervical strain, and strain of the hips and thighs and provided appellant light-duty work restrictions.

A March 5, 2024 x-ray of the lumbar spine revealed no definite acute fracture. A March 7, 2024 magnetic resonance imaging (MRI) scan of the lumbar spine demonstrated L3-4, L4-5 and L5-S1 disc bulges and mild levoscoliosis.

In a March 7, 2024 work activity status report, Dr. Gregory D. Adams, Board-certified in family medicine, diagnosed lumbar strain, cervical strain, strain of the left hip and thigh, strain of the right hip and thigh, and paresthesia of the legs. He reported that appellant could not return to full-duty work without restrictions.

In a March 7, 2024 report, Ms. Mathew provided physical examination findings and diagnosed lumbar strain, strain of the hips and thighs, paresthesia of the legs, paresthesia of the saddle area, and cervical strain. In a March 7, 2024 Form CA-17, she continued light-duty work restrictions. In a March 8, 2024, Ms. Mathew provided physical examination findings, recommended physical therapy, and diagnosed bulging lumbar disc, acute lumbar radiculopathy, paresthesia of both legs, paresthesia of saddle area, and cervical strain. In a March 8, 2024 Form CA-17 and work activity status report, she continued light-duty work restrictions. In a March 15, 2024 report, Ms. Mathew provided physical examination findings and diagnosed paresthesia of the saddle area, bulging lumbar disc, herniated nucleus pulposus of the lumbosacral region, lumbar strain, and paresthesia of the legs. In a March 15, 2024 Form CA-17, she opined that appellant could not perform regular-duty work. In a March 22, 2024 report, Ms. Mathew diagnosed acute lumbar radiculopathy, herniated nucleus pulposus of the lumbosacral region, paresthesia of the legs, and paresthesia of the saddle area. She noted that appellant was in a non-work status. In a March 22, 2024 Form CA-17, Ms. Mathew opined that appellant could not perform regular-duty work. In a March 22, 2024 work activity status report, Ms. Mathew opined that appellant could not perform regular-duty work.

In an April 4, 2024 development letter, OWCP informed appellant of the deficiencies of his claim. It advised him of the type of factual and medical evidence required and provided a questionnaire for his completion. OWCP afforded appellant 60 days to submit the requested evidence.

Following the development letter, appellant submitted a March 14, 2024 report, wherein Dr. Ganesh Balu, Board-certified in physical medicine and rehabilitation, evaluated appellant due to complaints of low back pain, lower extremity radicular pain, chronic neck pain, and bilateral hip pain following a February 9, 2024 employment incident when he was using a pallet jack to

move heavy pallets onto trucks and sustained injury to his lower back. He noted review of diagnostic testing revealed multilevel herniated discs and diagnosed cervical strain, cervical facet syndrome, multilevel lumbar herniated discs, and lumbar radiculopathy. Based on appellant's history, medical records, and examination, Dr. Balu opined that "it appeared" appellant sustained an injury to the neck and back arising out of and caused by the February 9, 2024 employment incident. He restricted appellant from returning to work and recommended a surgical consultation from a neurosurgeon given his neurological symptoms and multilevel herniated discs.

In a March 29, 2024 report, Ms. Mathews reported that appellant was making very little progress with physical therapy. She diagnosed acute lumbar radiculopathy, herniated nucleus pulposus of the lumbosacral region, paresthesia of the legs, paresthesia of the saddle area, strain of the left hip and thigh, strain of the right hip and thigh, bulging lumbar disc and cervical strain. In a March 29, 2024 Form CA-17, Ms. Mathews continued to hold appellant off work.

In an April 11, 2024 report, Dr. Balu reported that review of appellant's diagnostic studies revealed multilevel discogenic herniations in addition to listhesis and modic changes. He diagnosed acute herniated disc with lumbar radiculopathy, multilevel discogenic pain, and cervical facet syndrome. Dr. Balu continued to hold appellant off work and recommended immediate surgical intervention given his significant clinical findings and MRI abnormalities.

In an April 11, 2024 report, Dr. Adams reported that appellant was initially referred to Dr. Balu for consultation due to neurologic symptoms and MRI findings who then referred him to Dr. Pawan Rastogi, a Board-certified neurosurgeon, for neurosurgical evaluation. He provided examination findings and diagnosed acute lumbar radiculopathy, herniated nucleus pulposus of the lumbosacral region, paresthesia of the legs, paresthesia of the saddle area, strain of the right hip and thigh, and strain of the left hip and thigh. In a report of even date, Dr. Adams continued to hold appellant off work.

In an April 11, 2024 report, Ms. Mathews continued to hold appellant off work.

In Form CA-17 reports dated April 11 and 25, 2024, Ms. Mathews continued to hold appellant off work.

In an April 25, 2024 work activity status report, Dr. Adams noted appellant's diagnoses and continued to hold him off work.

In a follow-up letter dated May 9, 2024, OWCP advised appellant 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 April 4, 2024 letter to submit the requested supporting evidence from a qualified physician as to how the work event caused or affected his condition. 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.

Following the development letter, appellant submitted additional evidence in support of his claim including reports from Ms. Mathews dated April 25 through May 22, 2024, and Form CA-17 reports dated May 8 through 22, 2024, which continued to hold appellant off work.

In a May 7, 2024 report, Dr. Rastogi, evaluated appellant following a work injury in February 2024 when he was asked to move a very heavy pallet onto his truck, pushed it up the hill

and into a lift gate when it slipped and started to fall backward. Appellant complained of significant back pain with radiation into the buttock and down the posterolateral aspect of both legs and numbness and tingling of his feet. Dr. Rastogi noted that the MRI of the lumbar spine demonstrated multilevel degenerative changes with a broad-based disc protrusion causing bilateral root compression with an inferiorly migrated disc protrusion at L5-S1 and broad-based disc protrusion causing foraminal root compression at L4-5. He diagnosed bilateral lumbar radiculopathy secondary to disc protrusions at L4-5 and L5-S1 and continued to hold appellant off work pending further evaluation. In a May 7, 2024 form report, Dr. Rastogi opined that appellant was totally disabled from work.

In a May 17, 2024 attending physician's report (Form CA-20), Dr. Adams diagnosed lumbar radiculopathy, disc bulge, and paresthesia of the legs and saddle area. He noted that the injury occurred from moving and lifting heavy pallets and reported that appellant was totally disabled as a result of his injuries.

In a May 22, 2024 work activity status report, Dr. Adams noted appellant's diagnoses of acute lumbar radiculopathy, bulging lumbar disc, herniated nucleus pulposus of lumbosacral region, paresthesia of saddle area, and paresthesia of both legs and provided continued work restrictions reporting that he could not resume regular-duty work.

By decision dated June 11, 2024, OWCP accepted that the February 9, 2024 employment incident occurred, as alleged. However, the claim remained as the medical evidence of record was insufficient to establish a medical condition causally related to the accepted February 9, 2024 employment incident.

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

³ *Id.*

⁴ *E.K.*, Docket No. 22-1130 (issued December 30, 2022); *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 *S.H.*, Docket No. 22-0391 (issued June 29, 2022); *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 *E.H.*, Docket No. 22-0401 (issued June 29, 2022); *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).

employment incident at the time and place, and in the manner alleged. Second, the employee must submit sufficient medical evidence to establish that the employment incident caused an injury.⁷

The medical evidence required to establish causal relationship between a claimed specific condition and an employment incident 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 not met his burden of proof to establish a medical condition causally related to the accepted February 9, 2024 employment incident.

Dr. Balu, in his March 14, 2024 report, provided a history of injury and diagnoses. He opined that “it appeared” appellant sustained an injury to the neck and back arising out of and caused by the February 9, 2024 employment incident. However, although Dr. Balu supported causal relationship, he failed to provide medical rationale explaining the basis of his conclusory opinion. Without explaining, physiologically, how appellant moving heavy pallets caused or contributed to the diagnosed conditions, Dr. Balu’s medical report is of limited probative value and insufficient to establish appellant’s claim.¹⁰

In an April 11, 2024 report, Dr. Balu reported that he reviewed appellant’s diagnostic studies and provided diagnoses. While he restricted appellant from working and recommended immediate surgical intervention given his significant clinical findings and MRI abnormalities, he failed to provide an opinion regarding the cause of the diagnosed medical conditions. The Board has held that medical evidence that does not offer an opinion regarding the cause of an employee’s condition or disability is of no probative value.¹¹ Therefore, this evidence is insufficient to establish appellant’s claim.

In his reports, Dr. Adams discussed appellant’s history of injury and provided diagnoses. However, he did not provide an opinion on the cause of the diagnosed medical conditions. The Board has held that medical evidence that does not offer an opinion regarding the cause of an

⁷ *H.M.*, Docket No. 22-0343 (issued June 28, 2022); *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.M.*, Docket No. 22-0075 (issued May 6, 2022); *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 *J.D.*, Docket No. 22-0935 (issued December 16, 2022); *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).

¹⁰ *R.N.*, Docket No. 21-0884 (issued March 31, 2023); *S.K.*, Docket No. 20-0102 (issued June 12, 2020); *M.M.*, Docket No. 20-0019 (issued May 6, 2020).

¹¹ *See G.M.*, Docket No. 24-0388 (issued May 28, 2024); *C.R.*, Docket No. 23-0330 (issued July 28, 2023); *K.K.*, Docket No. 22-0270 (issued February 14, 2023); *S.J.*, Docket No. 19-0696 (issued August 23, 2019); *M.C.*, Docket No. 18-0951 (issued January 7, 2019); *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

employee's condition or disability is of no probative value.¹² Therefore, this evidence is insufficient to establish appellant's claim.

Appellant also submitted a May 7, 2024 report and form report from Dr. Rastogi in support of his claim. Dr. Rastogi discussed appellant's history of injury, noted examination findings, and reviewed the lumbar spine MRI, which revealed multilevel degenerative changes with a broad-based disc protrusion. While Dr. Rastogi diagnosed bilateral lumbar radiculopathy secondary to disc protrusions at L4-5 and LS-S1, he did not offer an opinion on causal relationship. As noted above, the Board has held that medical evidence that does not offer an opinion regarding the cause of an employee's condition is of no probative value on the issue of causal relationship.¹³ Therefore, this evidence is insufficient to establish appellant's claim.

Appellant also submitted a series of treatment notes and Form CA-17 reports from Ms. Mathews, a physician assistant, documenting treatment from March 5 through May 22, 2024. However, certain healthcare providers such as nurses and physician assistants are not considered physicians as defined under FECA and their reports do not constitute competent medical evidence.¹⁴ Consequently, her medical findings or opinions are insufficient to meet appellant's burden of proof.

Appellant also submitted diagnostic test results. The Board has held, however, that diagnostic studies, standing alone, lack probative value as they do not address whether the employment incident caused or aggravated any of the diagnosed conditions.¹⁵ For this reason, this remaining evidence is insufficient to meet appellant's burden of proof.

As the medical evidence of record is insufficient to establish a medical condition causally related to the accepted February 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.

¹² *Id.*

¹³ *Id.*

¹⁴ Section 8101(2) of FECA provides as follows: 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); *N.C.*, Docket No. 21-0934 (issued February 7, 2022) (nurse practitioners and physical therapists are not considered physicians as defined under FECA); *P.H.*, Docket No. 19-0119 (issued July 5, 2019) (physician assistants are not physicians under FECA); *David P. Sawchuk*, 57 ECAB 316, 320 n.11 (2006) (lay individuals such as nurses, physician assistants, and physical therapists are not competent to render a medical opinion under FECA).

¹⁵ *F.D.*, Docket No. 19-0932 (issued October 3, 2019).

CONCLUSION

The Board finds that appellant has not met his burden of proof to establish a medical condition causally related to the accepted February 9, 2024 employment incident.

ORDER

IT IS HEREBY ORDERED THAT the June 11, 2024 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: December 4, 2024
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