United States Department of Labor
Employees' Compensation Appeals Board

Y.R., Appellant	)	
	)	**Docket No. 25-0047**
and	)	**Issued: December 2, 2024**
	)	
U.S. POSTAL SERVICE, POST OFFICE, New Orleans, LA, 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
JAMES D. McGINLEY, Alternate Judge

JURISDICTION

On October 18, 2024 appellant filed a timely appeal from a September 19, 2024 merit decision of the Office of Workers' Compensation Programs (OWCP).[1] Pursuant to the Federal Employees' Compensation Act[2] (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.[3]

[1] Appellant submitted a timely request for oral argument before the Board. 20 C.F.R. § 501.5(b). Pursuant to the Board's *Rules of Procedure*, oral argument may be held in the discretion of the Board. 20 C.F.R. § 501.5(a). In support of appellant's oral argument request, appellant asserted that she had submitted sufficient evidence to establish her traumatic injury claim. The Board, in exercising its discretion, denies appellant's request for oral argument because the Board lacks jurisdiction to review the merits of this case. Oral argument in this appeal would further delay issuance of a Board decision and not serve a useful purpose. As such, the oral argument request is denied, and this decision is based on the case record as submitted to the Board.

[2] 5 U.S.C. § 8101 *et seq*.

[3] The Board notes that, following the September 19, 2024 decision, OWCP received additional evidence. 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*.

ISSUE

The issue is whether appellant has met her burden of proof to establish a diagnosed medical condition in connection with the accepted April 5, 2024 employment incident.

FACTUAL HISTORY

On April 23, 2024 appellant, then a 48-year-old rural carrier, filed a traumatic injury claim (Form CA-1) alleging that on April 5, 2024 she sustained a left shoulder tear while lifting a package in the performance of duty. She stopped work on April 5, 2024, returning to work at limited duty on June 5, 2024.

On April 6, 2024 the employing establishment issued an authorization for examination and/or treatment (Form CA-16). In an attached attending physician's report, Part B of the Form CA-16, dated April 11, 2024, Dr. Steve Springer, a Board-certified family practitioner, diagnosed left neck, back, and chest pain and checked a box indicating that these diagnoses were due to employment activity.

In a duty status report (Form CA-17) dated April 11, 2024, Dr. Springer related that appellant was unable to perform regular work. However, he did not complete the form.

Appellant submitted notes and reports signed solely by Kendra Meche, a nurse practitioner, dated May 1, June 4, and August 7, 2024, as well as an undated note from Ms. Meche. She also submitted a return to work note with an illegible signature dated April 21, 2024 and a return-to-work note signed solely by a registered nurse dated April 29, 2024.

Appellant further submitted notes from physical therapists, dated from May 8 through June 27, 2024.

In a development letter dated July 17, 2024, OWCP informed appellant of the deficiencies of her claim. It advised her of the type of factual and medical evidence necessary and provided a questionnaire for her completion. OWCP afforded appellant 60 days to respond.

Appellant continued to submit physical therapy notes dated from May 31 through July 25, 2024. She also submitted a return-to-work note with an illegible signature dated August 7, 2024.

In an August 21, 2024 follow-up development letter, OWCP informed appellant that the evidence of record remained insufficient to establish the factual and medical aspects of her claim, and advised her of the type of evidence required. It further indicated that she had 60 days from July 17, 2024, the date of the initial development letter, to submit the requested information. 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.

By decision dated September 19, 2024, OWCP accepted that the April 5, 2024 employment incident occurred, as alleged. However, it denied the claim, finding that the medical evidence of record was insufficient to establish a diagnosed medical condition in connection with the accepted employment incident. Thus, appellant had not met the requirements to establish an injury as defined by FECA.

LEGAL PRECEDENT

An employee seeking benefits under FECA[4] has the burden of proof to establish the essential elements of his or her claim, including the fact 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,[5] 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.[6] 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.[7]

To determine if an employee has sustained a traumatic injury in the performance of duty, OWCP begins with an analysis of whether fact of injury has been established. Fact of injury consists of two components that must be considered in conjunction with one another. The first component is whether the employee actually experienced the employment incident that allegedly occurred at the time and place and in the manner alleged.[8] The second component is whether the employment incident caused an injury.[9]

Rationalized medical opinion evidence is required to establish causal relationship. The opinion of the physician must be based on a complete factual and medical background, 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 the specific employment incident.[10]

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish a diagnosed medical condition in connection with the accepted April 5, 2024 employment incident.

In an attending physician's report dated April 11, 2024, Dr. Springer diagnosed left neck, back, and chest pain. However, under FECA, the assessment of pain is not considered a compensable medical diagnosis, as pain merely refers to a symptom of an underlying condition.[11]

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[4] *Supra* note 2.

[5] *S.B.*, Docket No. 17-1779 (issued February 7, 2018); *J.P.*, 59 ECAB 178 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

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

[7] *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).

[8] *B.P.*, Docket No. 16-1549 (issued January 18, 2017); *Elaine Pendleton*, 40 ECAB 1143 (1989).

[9] *M.H.*, Docket No. 18-1737 (issued March 13, 2019); *John J. Carlone*, 41 ECAB 354 (1989).

[10] *M.O.*, Docket No. 19-1398 (issued August 13, 2020); *J.L.*, Docket No. 18-1804 (issued April 12, 2019).

[11] *R.P.*, Docket No. 24-0424 (issued May 24, 2024); *J.L.*, Docket No. 20-1662 (issued October 7, 2022); *D.B.*, Docket No. 21-0550 (issued March 7, 2022).

Dr. Springer did not otherwise provide a firm diagnosis of a medical condition.[12] As he did not provide a firm diagnosis, his opinion is insufficient to establish the claim.[13]

Appellant submitted notes and reports signed solely by a nurse practitioner, registered nurse, and physical therapists. Certain healthcare providers such as nurse practitioners, registered nurses, and physical therapists are not considered physicians as defined under FECA.[14] Consequently, these notes and reports will not suffice for purposes of establishing entitlement to FECA benefits.

Appellant submitted notes dated April 21 and August 7, 2024 bearing illegible signatures. The Board has long held that reports that are unsigned or bear an illegible signature lack proper identification and cannot be considered probative medical evidence because the author cannot be identified as a physician.[15] Therefore, this evidence is also insufficient to establish the claim.

As there is no medical evidence of record to establish a diagnosed medical condition in connection with the accepted April 5, 2024 employment incident, the Board finds that appellant has not met her burden of proof.[16]

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] *See M.V.*, Docket No. 18-0884 (issued December 28, 2018); *see also P.S.*, Docket No. 12-1601 (issued January 2, 2013); *C.F.*, Docket No. 08-1102 (issued October 10, 2008).

[13] *See R.L.*, Docket No. 23-0098 (issued June 20, 2023); *A.S.,* Docket No. 19-1955 (issued April 9, 2020); *C.H.,* Docket No. 19-0409 (issued August 5, 2019).

[14] 5 U.S.C. § 8101(2) 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. 20 C.F.R. § 10.5(t). *See also* Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3a(1) (May 2023); *M.F.*, Docket No. 19-1573 (issued March 16, 2020) (medical reports signed solely by a nurse practitioner are of no probative value as these care providers are not considered physicians as defined under FECA); *A.C.*, Docket No. 24-0661 (issued September 11, 2024) (medical reports signed solely by a nurse or physical therapist are of no probative value, as such healthcare providers are not considered physicians as defined under FECA); *David P. Sawchuk*, 57 ECAB 316, 320 n.11 (2006).

[15] *R.F.*, Docket No. 24-0816 (issued October 28, 2024); *L.W.*, Docket No. 23-0682 (issued September 28, 2023); *L.B.*, Docket No. 21-0353 (issued May 23, 2022); *Merton J. Sills*, 39 ECAB 572, 575 (1988).

[16] *See M.S.*, Docket No. 24-0857 (issued September 24, 2024).

CONCLUSION

The Board finds that appellant has not met her burden of proof to establish a diagnosed medical condition in connection with the accepted April 5, 2024 employment incident.[17]

ORDER

IT IS HEREBY ORDERED THAT the September 19, 2024 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: December 2, 2024
Washington, DC

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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

[17] 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.J.,* Docket No. 24-0724 (issued July 20, 2024); *J.G.,* Docket No. 17-1062 (issued February 13, 2018); *Tracy P. Spillane,* 54 ECAB 608 (2003).