

FACTUAL HISTORY

This case has previously been before the Board.² The facts and circumstances as set forth in the Board's prior decision are incorporated herein by reference. The relevant facts are as follows.

On January 27, 2023 appellant, then a 45-year-old bulk mail clerk, filed a traumatic injury claim (Form CA-1) alleging that on April 6, 2020 she injured her lower back, hips, and left Achilles tendon when she lifted heavy packages and tubs while in the performance of duty.

In a July 9, 2021 report, Dr. Bryan Murtaugh, Board-certified in sports medicine, physical medicine, and rehabilitation, reviewed a magnetic resonance imaging (MRI) scan of appellant's lumbar spine and diagnosed degenerative changes of the lumbar spine; an L4-5 disc bulge with mass effect upon the left lateral exit of the nerve root; and an L5-S1 disc bulge abutting the S1 nerve roots bilaterally, right greater than left.

On September 27, 2021 Dr. Murtaugh advised that she could return to work without restrictions.

In an October 29, 2021 report, Dr. Murtaugh related that appellant was seen for complaints of low back pain. Appellant noted that her low back pain increased with both sitting and standing for prolonged periods of time. Dr. Murtaugh rendered the same diagnoses as in his July 9, 2021 report.

On February 11, 2022 Dr. Murtaugh followed up with appellant after bilateral facet point injections at L4-5 and L5-S1 performed on December 2, 2021. Appellant advised Dr. Murtaugh that she did not recall specific exacerbating factors for her back pain, noting that it varied based on activity. Dr. Murtaugh's diagnoses remained the same.

In a May 6, 2022 progress report, Dr. Murtaugh noted that appellant's low back pain had improved and that she was happy with progress made in physical therapy. Appellant noted that she wore a back brace at work and that standing, sitting, and walking for an extended period of time increased her pain. Her diagnosed conditions remained the same.

On October 11, 2022 Dr. Nicholas Casscells, a Board-certified orthopedic surgeon, reported that appellant was seen for calcific tendinitis of the left heel. On physical examination of the left lower extremity he observed tenderness to palpation at the insertion of her Achilles tendon on the calcaneus. X-rays demonstrated a large plantar fascia enthesophyte with a smaller calcaneal posterior enthesophyte at the insertion of the Achilles tendon. Dr. Casscells diagnosed a posterior tuberosity calcaneal enthesophyte and calcific tendinitis of the left heel.

In a November 1, 2022 report, Dr. Casscells related that physical examination of appellant's left lower extremity revealed little remaining tenderness at the insertion of the Achilles tendon with

² Docket No. 23-0683 (issued December 27, 2023).

minimal swelling. He noted that her diagnosed calcific Achilles tendinitis was healing nicely and cleared her to return to work the next week.

On January 3, 2023 Dr. Casscells followed up with appellant for left calcific Achilles tendinitis. He noted that her condition was improving with physical therapy. Dr. Casscells continued appellant's prescription for two months of physical therapy.

In a February 8, 2023 development letter, OWCP informed appellant of the deficiencies of her claim. It advised her of the type of factual and medical evidence needed to establish her claim and provided a questionnaire for her completion. OWCP afforded appellant 30 days to submit the necessary evidence.

Appellant submitted reports from physical therapists dated from June 5, 2019 through February 9, 2023, for several courses of physical therapy. Notes dated June 5 through September 11, 2019 indicated that appellant was at physical therapy for back pain that began in February 2019.

OWCP also received additional reports from Dr. Murtaugh and Dr. Casscells.

On May 18, 2021 Dr. Murtaugh examined appellant for complaints of low back pain. Appellant noted exacerbating factors including sitting for prolonged periods of time, house chores, and bending. Physical examination of the lumbar spine was normal. Dr. Murtaugh diagnosed low back pain.

In a report dated August 20, 2021, Dr. Murtaugh related that he had performed a physical examination of appellant's spine, and had observed tenderness to palpation at L4-5 and L5-S1 with mild restriction in flexion, extension, and side bending. He diagnosed bilateral lumbar radiculopathy and recommended bilateral transfemoral epidural steroid injections at L5-S1.

In a September 20, 2021 report, Dr. Murtaugh diagnosed sacroiliitis and sacroiliac joint pain. He treated appellant with bilateral sacroiliac joint injections at L5-S1.

On December 2, 2021 Dr. Murtaugh diagnosed lumbar and lumbar facet pain. He administered facet point injections at L4-5 and L5-S1.

In a progress report dated August 29, 2022, Dr. Murtaugh noted that appellant would benefit from continued physical therapy. On physical examination of the spine he observed slight pain in the sacroiliac region bilaterally with back extension.

In a report dated September 13, 2022, Dr. Casscells related that he had examined appellant for complaints of heel pain. On physical examination he observed significant tenderness to palpation on the Achilles tendon at the insertion on the calcaneus and tenderness over the retrocalcaneal bursa. Dr. Casscells diagnosed left Achilles tendinitis and recommended a walking boot.

In a note dated September 26, 2022, Dr. Casscells related that appellant was unable to return to work at that time due to the nature of her injury.

October 11, 2022 x-rays of appellant's left foot demonstrated postsurgical changes and enthesopathy.

In a February 16, 2023 statement, appellant recounted that she had been off work due to COVID-19, and was not scheduled to return until April 6, 2020. She related that she had previously experienced muscle spasms in her back while at home and underwent physical therapy for other conditions. Appellant indicated that she began work in April 2020, and had no issues until she began lifting heavy packages to the metering machine scale, experiencing a burning sensation and muscle spasm. She noted that she returned to work after the sensation ceased and left work early, stating that she experienced discomfort while walking and with certain motions.

By decision dated March 17, 2023, OWCP denied appellant's traumatic injury claim, finding that the evidence of record was insufficient to establish that the events or incident occurred as alleged. Consequently, it found that she had not met the requirements to establish an injury as defined by FECA.

Appellant appealed to the Board. By decision dated December 27, 2023, the Board reversed OWCP's March 17, 2023 decision, finding that appellant had met her burden of proof to establish that a traumatic incident occurred in the performance of duty on April 6, 2020, as alleged. The Board remanded the case for consideration of the medical evidence of record with regard to whether appellant sustained an injury causally related to the accepted April 6, 2020 employment incident.

In a development letter dated January 31, 2024. OWCP informed appellant of the deficiencies of her claim. It advised her of the type of medical evidence needed to establish her claim and afforded her 60 days to submit the necessary medical evidence.

In a note dated March 15, 2024, Dr. Sonita Singh, Board-certified in family medicine, indicated that appellant was under her care. She stated that on April 6, 2020, appellant suffered an acute back injury when she lifted boxes of mail at work. Dr. Singh noted that this injury caused pain with prolonged sitting, squatting, and bending, with the pain sometimes traveling down her legs. She stated that appellant began physical therapy in August 2020, and continued home exercises and yoga. Dr. Singh noted that appellant underwent epidural steroid injections in her back in 2023. She reviewed the impressions of x-rays and MRI scans of the spine. Dr. Singh noted that appellant's diagnoses included low back pain, bilateral lumbar radiculopathy, and bilateral sacroiliitis. She observed that prior to the injury on April 6, 2020, appellant did not suffer from back pain.

By *de novo* decision dated April 4, 2024, OWCP denied appellant's claim, finding that she had not submitted sufficient rationalized medical evidence to establish that the accepted employment incident of April 6, 2020 caused or aggravated her diagnosed conditions.

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. 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.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.⁹

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish a medical condition causally related to the accepted April 6, 2020 employment incident.

In support of her claim, appellant submitted medical reports from Dr. Murtaugh, and reports from Dr. Casscells. Following his July 9, 2021 review of appellant's lumbar spine MRI scan, Dr. Murtaugh continued to provide diagnoses of degenerative changes of the lumbar spine;

³ *Id.*

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.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).

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).

an L4-5 disc bulge with mass effect upon the left lateral exit of the nerve root; and an L5-S1 disc bulge abutting the S1 nerve roots bilaterally, right greater than left. Appellant was seen by Dr. Casscells for left heel complaints, and he diagnosed a posterior tuberosity calcaneal enthesophyte and calcific tendinitis of the left heel. While these reports contain diagnoses of back and left lower extremity conditions, they do not provide an opinion as to the cause of these diagnosed 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 on the issue of causal relationship.¹⁰ The reports of Drs. Murtaugh and Casscells are, therefore, insufficient to establish appellant's claim.

Appellant also submitted a March 15, 2024 report from Dr. Singh. Dr. Singh stated that on April 6, 2020 appellant suffered an acute back injury when she lifted boxes of mail at work. She noted that appellant's diagnoses included bilateral lumbar radiculopathy, and bilateral sacroiliitis and observed that prior to the injury on April 6, 2020 appellant did not suffer from back pain. However, the Board has held that a medical opinion supporting causal relationship because an employee was asymptomatic before the incident is insufficient, without supporting medical rationale, to establish a claim.¹¹ Dr. Singh's report does not provide such rationale. As such, this evidence is insufficient to establish the claim.

X-rays of the left foot obtained on October 11, 2022 demonstrated postsurgical changes and enthesopathy. The Board has held that diagnostic tests, standing alone, lack probative value on the issue of causal relationship as they do not provide an opinion on causal relationship.¹²

Appellant also submitted reports from physical therapists. Certain healthcare providers such as physician assistants, nurse practitioners, physical therapists, and social workers, however, are not considered "physician[s]" as defined under FECA.¹³ Consequently, the findings of the physical therapists will not suffice for the purpose of establishing entitlement to FECA benefits.¹⁴

As the medical evidence of record is insufficient to establish a medical condition causally related to the accepted April 6, 2020 employment incident, the Board finds that appellant has not met her burden of proof.

¹⁰ *P.L.*, Docket No. 19-1750 (issued March 26, 2020); *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018); *Willie M. Miller*, 53 ECAB 697 (2002).

¹¹ *See C.C.*, Docket No. 17-1841 (issued December 6, 2018); *Thomas Petrylak*, 39 ECAB 276, 281 (1987).

¹² *See C.F.*, Docket No. 18-1156 (issued January 22, 2019); *T.M.*, Docket No. 08-0975 (issued February 6, 2009).

¹³ Section 8101(2) of FECA provides that medical opinions can only be given by a qualified physician. This section defines a physician as 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) (May 2023); *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 B.A.*, Docket No. 24-0406 (issued May 24, 2024).

¹⁴ *See id.*

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 medical condition causally related to the accepted April 6, 2020 employment incident.

ORDER

IT IS HEREBY ORDERED THAT the April 4, 2024 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: June 26, 2024
Washington, DC

Patricia H. Fitzgerald, Deputy Chief Judge
Employees' Compensation Appeals Board

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

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