

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

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<b>D.K., Appellant</b>	)	
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<b>and</b>	)	<b>Docket No. 24-0195</b>
	)	<b>Issued: May 23, 2024</b>
<b>U.S. POSTAL SERVICE, BOGGS ROAD POST OFFICE, Duluth, GA, Employer</b>	)	
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*Appearances:* *Case Submitted on the Record*  
*Paul H. Felser, Esq., for the appellant<sup>1</sup>*  
*Office of Solicitor, for the Director*

**DECISION AND ORDER**

Before:  
ALEC J. KOROMILAS, Chief Judge  
VALERIE D. EVANS-HARRELL, Alternate Judge  
JAMES D. MCGINLEY, Alternate Judge

**JURISDICTION**

On December 21, 2023 appellant, through counsel, filed a timely appeal from a June 29, 2023 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act<sup>2</sup> (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 her burden of proof to establish a medical condition causally related to the accepted June 18, 2021 employment incident.

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<sup>1</sup> In all cases in which a representative has been authorized in a matter before the Board, no claim for a fee for legal or other service performed on appeal before the Board is valid unless approved by the Board. 20 C.F.R. § 501.9(e). No contract for a stipulated fee or on a contingent fee basis will be approved by the Board. *Id.* An attorney or representative's collection of a fee without the Board's approval may constitute a misdemeanor, subject to fine or imprisonment for up to one year or both. *Id.*; *see also* 18 U.S.C. § 292. Demands for payment of fees to a representative, prior to approval by the Board, may be reported to appropriate authorities for investigation.

<sup>2</sup> 5 U.S.C. § 8101 *et seq.*

## **FACTUAL HISTORY**

On October 28, 2021 appellant, then a 61-year-old rural delivery specialist, filed a traumatic injury claim (Form CA-1) alleging that on June 18, 2021 she sustained bruises to her legs, right hip, left shoulder, right foot, and lower back when she twisted her left foot and fell onto concrete as she was loading parcels into her postal vehicle while in the performance of duty.

In a development letter dated November 10, 2021, OWCP informed appellant of the deficiencies of her claim. It advised her of the type of medical and factual evidence needed and provided a questionnaire for her completion. OWCP afforded appellant 30 days to respond.

In an October 19, 2021 form report, Dr. Joseph Jackson, Jr., a Board-certified family practitioner, noted that appellant had fallen on June 18, 2021 and that since the fall, she had experienced back pain radiating down the right leg and was unable to ambulate steadily.

A magnetic resonance imaging (MRI) scan obtained of appellant's lumbar spine on October 8, 2021, which indicated mild degenerative disc disease at L4-L5 with mild spinal canal stenosis and mild bilateral foraminal narrowing; and multilevel facet arthropathy, worst at L4-L5.

In progress notes dated September 10 and 28, 2021, Dr. Jackson diagnosed back pain with radiculopathy after a fall. On September 10, 2021 physical examination of appellant's lower back indicated discomfort and limited range of motion with a slight decrease in reflexes on the right side. The lower back discomfort persisted on September 28, 2021, as well as decreased strength, with pain radiating to the right leg.

In a November 7, 2021 report, Dr. John Clapp, an orthopedic surgeon, noted that appellant had been referred by Dr. Jackson for evaluation of appellant's lumbar condition. He noted that appellant had fallen at work on June 18, 2021 and began having sharp back pain, radiating to the right leg. On physical examination of the lower extremities and the back, he observed essentially normal findings. Dr. Jackson observed that appellant's gait was normal. Appellant wrote on the report that she had used a wheelchair since the date of injury on June 18, 2021. Dr. Jackson diagnosed lumbar radiculopathy, lumbar spinal stenosis, low back pain, and severe obesity.

In an attending physician's report (Form CA-20) dated November 11, 2021, Dr. Jackson diagnosed back pain with radiculopathy. He noted that appellant fell at work on June 18, 2021 and that her back pain radiated down into her right leg. Dr. Jackson checked a box indicating that her condition was caused or aggravated by employment activity, explaining that she "no doubt" had worsening of pain and radiculopathy into the right leg after her fall. He further indicated that she had experienced back pain before, but without radiation down the right leg. Dr. Jackson stated that x-ray and MRI scan results had indicated degenerative changes, and that appellant would have chronic problems with her back.

By decision dated December 16, 2021, OWCP denied appellant's claim, finding that the medical evidence of record was insufficient to establish causal relationship between her diagnosed conditions and the accepted June 18, 2021 employment incident. It concluded, therefore, that the requirements had not been met to establish that she sustained an injury and/or medical condition causally related to the accepted employment incident.

On February 18, 2022 appellant requested reconsideration. On the appeal request form, appellant noted that since OWCP's December 16, 2021 decision, she had suffered a stroke behind her third cranial nerve.

In a letter dated January 18, 2022, Dr. Jackson noted that he had treated appellant for approximately five years, for diagnoses including diabetes, neuropathy, arthritis, and chronic pain. He stated that, after the fall on June 18, 2021, she had been wheelchair-bound and was unable to ambulate. Dr. Jackson opined that the fall on June 18, 2021 was the major contributor, if not the only factor, in her inability to ambulate or return to work, because she had been able to ambulate before the fall and was unable to ambulate afterward. He explained that appellant had weakness in her lower extremities and pain in her back with radiculopathy to the right lower extremity.

OWCP received additional progress notes dated June 24, 2021 through March 1, 2022, wherein Dr. Jackson noted that appellant presented to his office after having fallen on June 18, 2021 at work. He described the fall as having occurred when she held a box and fell backwards, landing on her buttocks, while the box fell on her left wrist. Physical examination indicated mild diffuse tenderness in the left ribs with no obvious fracture. Dr. Jackson noted that an x-ray of the lumbar spine demonstrated degenerative changes. He diagnosed rib pain and lower back pain status post a fall at work. On July 9, 2021 Dr. Jackson noted that the lower back discomfort remained, with radiation into her right leg. Physical examination indicated lower back pain with a limited range of motion. Dr. Jackson diagnosed back pain status post a fall with radiculopathy. On November 11, 2021 he diagnosed back pain with radiculopathy, and recommended physical therapy. On January 14, 2022 Dr. Jackson diagnosed left shoulder pain and arthritis, noting that appellant had injured her left shoulder in the past. On March 1, 2022 he noted pain, swelling, and discomfort in the right lower extremity, as well as limited mobility. Dr. Jackson diagnosed swelling and pain of the right lower extremity, observing diffuse tenderness to touch.

By decision dated May 18, 2022, OWCP denied modification of its December 16, 2021 decision.

In a note dated January 25, 2023, Dr. Jackson noted a medical history including diabetes, diabetic neuropathy, fibromyalgia, anxiety, and intermittent lower back discomfort secondary to degenerative disc disease. He stated that on June 18, 2021, she was at work and transferring a box to her postal vehicle when she fell backwards, landing on her buttocks and lower back, while the box landed on her left wrist and left side. Dr. Jackson noted that her left wrist and left rib pain had resolved, but that she had a significant increase in pain in the lower back, as well as significantly decreased ability to carry out physical activities. Appellant was non-ambulatory and used a wheelchair after the fall on June 18, 2021, whereas before the fall, she missed work sparingly. Dr. Jackson opined that he was 100 percent certain that the incident of June 18, 2021 caused her worsening degenerative disc disease of the back, resulting in her inability to ambulate or carry out regular duties of her job and daily living. A note from Dr. Jackson dated June 27, 2022 was substantially similar, in which he opined that as it had been over a year since the initial injury on June 18, 2021, it was without a doubt that she experienced a work-related aggravation of her preexisting lower back pain, and was unable to work.

On May 17, 2023 appellant, through counsel, requested reconsideration.

In a note dated June 23, 2023, Dr. Jackson indicated that appellant experienced a fall at work on June 18, 2021, and that he first evaluated her on June 24, 2021, after the fall. Appellant was unable to return to work after the June 18, 2021 incident. Dr. Jackson stated that her left wrist and left rib pain resolved within two weeks of the fall, but that her lower back injury had not resolved. He noted her inability to ambulate and that MRI scan results revealed degenerative disc disease at L4-L5 with some spinal canal stenosis; bilateral neural foraminal narrowing; and multilevel facet arthropathy worse at L4-L5. Dr. Jackson further stated that these conditions could cause significant lower back pain and limited her ability to work. He opined that she continued to suffer residual symptoms from the fall related to her lower back. Dr. Jackson noted that while appellant experienced intermittent back pain before the fall on June 18, 2021, it was infrequent, and that her residual back conditions were directly caused by the fall. He stated that her disability was permanent and that the fall, aggravating her conditions, were the main reason she was unable to return to her preinjury state. Related to his January 25, 2023 note, Dr. Jackson clarified that appellant had a fall at work and had been unable to ambulate since that date. He opined again that her present level of disability was the direct result of her injury at work.

By decision dated June 29, 2023, OWCP denied modification of its May 18, 2022 decision.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA<sup>3</sup> 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,<sup>4</sup> 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.<sup>5</sup> 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.<sup>6</sup>

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.<sup>7</sup>

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<sup>3</sup> *Id.*

<sup>4</sup> *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).

<sup>5</sup> *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).

<sup>6</sup> *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).

<sup>7</sup> *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).

The medical evidence required to establish causal relationship between a claimed specific condition and an employment incident is rationalized medical opinion evidence.<sup>8</sup> 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.<sup>9</sup>

In any case where a preexisting condition involving the same part of the body is present and the issue of causal relationship, therefore, involves aggravation, acceleration, or precipitation, the physician must provide a rationalized medical opinion that differentiates between the effects of the work-related injury or disease and the preexisting condition.<sup>10</sup>

### ANALYSIS

The Board finds that appellant has not met her burden of proof to establish a medical condition causally related to the accepted June 18, 2021 employment incident.

On January 18, 2022 Dr. Jackson opined that the fall on June 18, 2021 was the major contributor, if not the only factor, in appellant's inability to ambulate or return to work, because she had been able to ambulate before the fall and was unable to do so afterward. On June 27, 2022 he opined that as it had been over a year since the June 18, 2021 injury, it was without a doubt that she experienced a work-related aggravation of her preexisting lower back pain. On January 25, 2023 Dr. Jackson opined that he was certain that the June 18, 2021 incident caused her worsening degenerative disc disease of the back. On June 23, 2023 he opined that she continued to suffer residual symptoms from the fall related to her lower back. Dr. Jackson noted that while appellant experienced intermittent back pain before the fall on June 18, 2021, it was infrequent, and that her residual back conditions were directly caused by the fall. He stated that her disability was permanent and that the fall, aggravating her conditions, were the main reason she was unable to return to her preinjury state. Dr. Jackson, however, did not provide a rationalized medical explanation regarding how or why the diagnosed conditions were caused or aggravated by the accepted June 18, 2021 employment incident. A medical opinion that a condition is causally related to an employment injury because the employee was asymptomatic before the injury, but symptomatic after it, is insufficient, without supporting rationale, to establish causal relationship.<sup>11</sup> A medical report must offer a medically-sound and rationalized explanation by the physician of how an employment-related incident physiologically caused or aggravated the diagnosed

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<sup>8</sup> *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).

<sup>9</sup> *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).

<sup>10</sup> Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3e (May 2023). See *R.D.*, Docket No. 18-1551 (issued March 1, 2019).

<sup>11</sup> See *R.S.*, Docket No. 16-1469 (issued December 8, 2016); *D.R.*, Docket No. 16-0411 (issued June 10, 2016); *Cleopatra McDougal-Saddler*, 47 ECAB 480 (1996).

conditions.<sup>12</sup> Medical rationale explaining causal relationship is especially necessary in any case where a preexisting condition involving the same part of the body is present, and the issue of causal relationship, therefore, involves aggravation, acceleration, or precipitation. The Board therefore finds that this evidence is insufficient to establish the claim.

In a Form CA-20 dated November 11, 2021, Dr. Jackson diagnosed back pain with radiculopathy. He checked a box indicating that her condition was caused or aggravated by employment activity, explaining that she “no doubt” had worsening of pain and radiculopathy into the right leg after her fall. Dr. Jackson, however, did not provide medical rationale explaining that incident of June 18, 2021 caused or aggravated diagnosed back conditions and conditions of the upper and lower extremities. The Board has held that reports that address causal relationship only by checkmark, without medical rationale explaining how the employment incident caused or aggravated the diagnosed condition, are of diminished probative value.<sup>13</sup> As such, this evidence is insufficient to establish appellant’s claim.

In an October 19, 2021 form report, Dr. Jackson noted that appellant had fallen on June 18, 2021 and that since the fall, she had experienced back pain radiating down the right leg and was unable to ambulate steadily. In an undated report, Dr. Jackson diagnosed lumbar radiculopathy, lumbar spinal stenosis, low back pain, and severe obesity. In progress notes dated June 24 through March 1, 2022, Dr. Jackson rendered diagnoses of back pain, rib pain, left shoulder pain and arthritis, and pain of the right lower extremity. Dr. Jackson, however, did not provide an opinion as to the cause of appellant’s diagnosed back conditions and conditions of the upper and lower extremities. 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.<sup>14</sup> This evidence is therefore insufficient to establish the claim.

OWCP also received a November 7, 2021 report, wherein Dr. Clapp noted that appellant had fallen at work on June 18, 2021 and began having sharp back pain, radiating to the right leg. Dr. Clapp diagnosed lumbar radiculopathy, lumbar spinal stenosis, low back pain, and severe obesity. However, he did not provide an opinion regarding the cause of appellant’s diagnosed conditions. 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.<sup>15</sup> Dr. Clapp’s report is therefore insufficient to establish the claim.

Appellant submitted the results of an MRI scan obtained on October 8, 2021. The Board has held that diagnostic test reports, standing alone, lack probative value on the issue of causal

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<sup>12</sup> See *T.L.*, Docket No. 23-0073 (issued January 9, 2023); *V.D.*, Docket No. 20-0884 (issued February 12, 2021); *Y.D.*, Docket No. 16-1896 (issued February 10, 2017).

<sup>13</sup> See *R.V.*, Docket No. 21-0976 (issued July 18, 2023); *D.S.*, Docket No. 21-0037 (issued May 27, 2021); *S.C.*, Docket No. 20-0327 (issued May 6, 2021); *A.R.*, Docket No. 19-0465 (issued August 10, 2020); *Gary J. Watling*, 52 ECAB 278 (2001); *Lillian M. Jones*, 34 ECAB 379, 381 (1982).

<sup>14</sup> See *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

<sup>15</sup> *Id.*

relationship as they do not provide an opinion as to whether the accepted employment factors caused a diagnosed condition.<sup>16</sup>

As the medical evidence of record is insufficient to establish causal relationship between a medical condition and the accepted June 18, 2021 employment incident, the Board finds that appellant has not met her 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 her burden of proof to establish a medical condition causally related to the accepted June 18, 2021 employment incident.

**ORDER**

**IT IS HEREBY ORDERED THAT** the June 29, 2023 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: May 23, 2024  
Washington, DC

Alec J. Koromilas, 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

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<sup>16</sup> *W.L.*, Docket No. 20-1589 (issued August 26, 2021); *A.P.*, Docket No. 18-1690 (issued December 12, 2019).