

FACTUAL HISTORY

On October 29, 2023 appellant, then a 42-year-old postal vehicle maintenance mechanic, filed a traumatic injury claim (Form CA-1) alleging that on October 19, 2023 he sustained lower back pain and tingling, and pain in the back of the legs, when his vehicle struck another vehicle head on while in the performance of duty. He stopped work that same day.

An after-visit summary dated October 19, 2023 noted that appellant was seen that day by Dr. Henry Dingle, a specialist in emergency medicine, for neck and back pain following a motor vehicle accident.

An after-visit summary dated October 20, 2023 noted that appellant was seen that day by Steven J. Hutto, a nurse practitioner, for back pain following a motor vehicle accident. A diagnosis of bilateral sciatica was listed.

OWCP received an October 25, 2023 after-visit summary and a report of work status from Kathleen B. Baxley, a nurse practitioner, who prescribed prednisone and noted that appellant returned to work full-time regular duty with no restrictions on October 20, 2023.

By development letter dated November 1, 2023, OWCP informed appellant of the deficiencies of his claim. It advised him of the type of factual and medical evidence necessary to establish his claim and provided a questionnaire for his completion. OWCP afforded appellant 60 days to submit the requested evidence.

OWCP subsequently received an October 19, 2023 report from Dr. Dingle, who recounted that appellant presented six hours following a motor vehicle accident. Dr. Dingle noted that appellant had lower back pain, pain in the bilateral hips, and neck pain, and related that appellant was unsure if he hit his head. He examined appellant and diagnosed neck pain (primary), and acute midline low back pain without sciatica.

An October 19, 2023 x-ray of the cervical spine revealed degenerative changes at C5-6 and C6-7. An October 19, 2023 x-ray of the lumbar spine was unremarkable.

OWCP received notes from Mr. Hutto dated October 20, 2023. Mr. Hutto related that appellant presented with continued lower back pain descending from his buttocks into his legs, after a motor vehicle accident the prior day. The nurse practitioner examined appellant and diagnosed motor vehicle accident and bilateral sciatica.

An October 20, 2023 computerized tomography (CT) scan of the lumbar sacral spine without contrast revealed lumbar plexopathy, lower back pain, and motor vehicle accident. It also noted no evidence of acute rheumatic injury, no evidence of acute fracture, mild posterior degenerative spondylosis with no evidence of central canal stenosis, and mild narrowing of the right neural foramina of L4-5 secondary to disc.

An October 25, 2023 report from Ms. Baxley noted chief complaints of back pain with symptoms starting on October 19, 2023 following a motor vehicle accident. Ms. Baxley diagnosed neural foraminal stenosis of lumbar spine. She also saw appellant on November 20, 2023, and repeated the diagnoses.

In a December 1, 2023 follow-up development letter, OWCP advised appellant that nurse practitioners were not qualified physicians, unless their reports were countersigned by a physician, and a finding of pain alone was insufficient to establish his claim, as it was not a valid diagnosis but merely a symptom. It also noted that he had been afforded 60 days from November 1, 2023 to submit the requested evidence.

A November 13, 2023 magnetic resonance imaging (MRI) scan of the lumbar spine revealed degenerative disc disease at L4-5, with a right posterior lateral disc protrusion with annular fissure traversing the right L5 nerve root, and shallow left posterior lateral disc protrusion at L5-S1 abutting the traversing left S1 nerve, and mild left foraminal narrowing.

On January 2, 2024 OWCP requested that a district medical adviser (DMA) address the reports from Ms. Baxley and provide an opinion as to whether he concurred with her diagnosis.

In a January 3, 2024 report,³ Dr. Micheal M. Katz, Board-certified in orthopedic surgery and serving as the DMA, noted that appellant's treatment was reasonable, that he concurred with the diagnosis of low back pain; however, he did not concur with the diagnosis of lumbar neuroforaminal stenosis as it was a degenerative condition and likely preexisting. He explained that appellant was in a low velocity motor vehicle accident, was restrained, and there was no deployment of the airbag.

In a form report dated January 4, 2024, Dr. Gregory Konduros, a physician Board-certified in family medicine, related a diagnosis of neural foraminal stenosis of the lumbar spine.

By decision dated January 10, 2024, OWCP denied appellant's traumatic injury claim finding that the medical evidence of record was insufficient to establish that his diagnosed lumbar condition was causally related to the accepted October 19, 2023 employment incident.

LEGAL PRECEDENT

An employee seeking benefits under FECA⁴ 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,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

³ The report was dated January 3, 2023, however, this appears to be a typographical error as the case record supports that the date of his report was January 3, 2024.

⁴ 5 U.S.C. § 8101 *et seq.*

⁵ *See L.P.*, Docket No. 23-1134 (issued February 22, 2024); *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).

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 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. First, the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time and place, and in the manner alleged. Second, the employee must submit sufficient evidence to establish that the accepted employment incident caused an injury.⁸

The medical evidence required to establish causal relationship between a claimed specific condition and an employment incident is rationalized medical opinion evidence.⁹ 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 factors identified by the employee.¹⁰

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish a medical condition causally related to the accepted October 19, 2023 employment incident.

In October 19, 2023 reports, Dr. Dingle noted that appellant presented six hours following a motor vehicle accident. He noted that appellant related that he had lower back pain, pain in the bilateral hips, and neck pain, and was unsure if he hit his head. Dr. Dingle examined appellant and diagnosed neck pain (primary), and acute midline low back pain without sciatica. He, however, did not provide an opinion on causal relationship. 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.¹¹ This evidence is, therefore, insufficient to establish the claim.

Therefore, this evidence is insufficient to establish appellant's claim.

In reports dated October 20, 2023, Mr. Hutto related a diagnosis of bilateral sciatica. In October 25 and November 29, 2023 reports, Ms. Baxley diagnosed neural foraminal stenosis of lumbar spine. Certain healthcare providers, such as physician assistants, nurse practitioners, and

⁶ *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).

⁷ *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).

⁸ *T.H.*, Docket No. 19-0599 (issued January 28, 2020); *K.L.*, Docket No. 18-1029 (issued January 9, 2019).

⁹ *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).

¹⁰ *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).

¹¹ *A.P.*, Docket No. 18-1690 (issued December 12, 2019); *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

physical therapists, are not considered physicians as defined under FECA.¹² The Board has held that medical reports signed solely by a nurse practitioner are of no probative value, as such health care providers are not considered physicians as defined under FECA, and therefore are not competent to provide a medical opinion.¹³

In a form report dated January 4, 2024, Dr. Konduros related a diagnosis of neural foraminal stenosis of the lumbar spine. This evidence, however, did not contain an opinion as to the cause of appellant's diagnosed conditions. 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.¹⁴ This evidence is, therefore, insufficient to establish the claim.

OWCP also received diagnostic studies including October 19, 2023 x-rays of the cervical and lumbar spine, an October 20, 2023 CT scan of the lumbar sacral spine, and a November 13, 2023 MRI scan of the lumbar spine. However, the Board has held that diagnostic reports, standing alone, lack probative value on the issue of causal relationship as they do not provide an opinion as to whether the accepted employment incident caused a diagnosed condition.¹⁵ Consequently, this evidence is insufficient to establish appellant's claim.

As the medical evidence of record is insufficient to establish that appellant's back condition is causally related to the accepted October 19, 2023 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 that his back condition is causally related to the accepted October 19, 2023 employment incident.

¹² 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) (January 2013); *M.F.*, Docket No. 19-1573 (issued March 16, 2020); *N.B.*, Docket No. 19-0221 (issued July 15, 2019); *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).

¹³ *C.C.*, Docket No. 23-1006 (issued December 28, 2023).

¹⁴ *Supra* note 11.

¹⁵ *W.L.*, Docket No. 20-1589 (issued August 26, 2021); *A.P.*, Docket No. 18-1690 (issued December 12, 2019).

ORDER

IT IS HEREBY ORDERED THAT the January 10, 2024 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: May 17, 2024
Washington, DC

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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