



## **FACTUAL HISTORY**

On August 14, 2023 appellant, then a 49-year-old mail handler, filed a traumatic injury claim (Form CA-1) alleging that on August 13, 2023 she sustained a herniated disc in her lower back when she “pushed up” to open a tractor-trailer door while in the performance of duty. She stopped work on August 14, 2023.

Dr. Michael Leviton, a Board-certified radiologist, reviewed August 13, 2023 lumbar spine x-rays which revealed minimal degenerative endplate spurring without disc narrowing.

On August 13, 2023 appellant sought treatment with Svetlana Baluk and on August 14, 2023 sought treatment with Kayla Miller, both nurse practitioners.<sup>3</sup> On August 21, 2023 she sought treatment with Timothy E. Kendrick, a physician assistant.

In notes dated August 15, 2023, Dr. Niranjan Marion Selvarajah, a Board-certified family practitioner, examined appellant and diagnosed acute left-sided low back pain without sciatica. He reported that her injury occurred at work on August 13, 2023 and further answered “Yes” indicating that the incident that she described was the competent medical cause of her injury. Dr. Selvarajah described the August 13, 2023 incident of opening the back of a mail truck and injuring her lower back. He opined that appellant was totally disabled through August 21, 2023. On August 30, 2023 appellant began physical therapy with Caitlin Powers, a physical therapist.

Dr. Nathaniel S. Gould, a Board-certified physiatrist, examined appellant on December 4, 2023 and diagnosed low back pain with left-sided radicular pain, suspect lumbar disc herniation and suspect a significant component of left sacroiliitis. He noted that she had sustained an injury on August 13, 2023 at work lifting a door and opined that the incident described was the competent medical cause of the injury.

In a development letter dated December 18, 2023, OWCP informed appellant that, when her claim was first received, it appeared to be a minor injury that resulted in minimal or no lost time for work, and it had now reopened her claim for consideration of the merits. It advised her of the type of factual and medical evidence needed, provided her with an attending physician’s report (Form CA-20), for her physician to complete, and afforded her 60 days to respond.

In a follow-up letter dated January 24, 2024, OWCP advised appellant that it had conducted an interim review, and the evidence remained insufficient to establish her claim. It noted that she had 60 days from the December 18, 2023 letter to submit the requested supporting evidence. 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.

Appellant resubmitted the medical evidence previously of record including Dr. Leviton’s August 13, 2023 report, Dr. Selvarajah’s August 15, 2023 reports, and notes from Mr. Kendrick, Ms. Baluk, and Ms. Miller.

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<sup>3</sup> On December 12, 2024 Dr. Arthur S. Harris, a Board-certified orthopedic surgeon serving as district medical adviser (DMA), reviewed Ms. Miller’s report and found that it did not include the mechanism of injury, objective findings, or causal relationship with the injury of August 13, 2023. *See* Federal (FECA) Procedure Manual, Part 2 -- Claims, *Fact of Injury*, Chapter 2.803.8.a.(1) (November 2023).

In a January 31, 2024 report, Dr. Gould diagnosed chronic left-sided low back pain with left-sided sciatica. He opined that appellant was injured at work by a trailer door.

By decision dated February 21, 2024, OWCP denied appellant's traumatic injury claim, finding that the medical evidence of record was insufficient to establish that her diagnosed condition was causally related to the accepted August 13, 2023 employment incident.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA<sup>4</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>5</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>6</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>7</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. 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 employment incident caused an injury.<sup>8</sup>

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

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<sup>4</sup> *Id.*

<sup>5</sup> *R.C.*, Docket No. 23-0768 (issued December 22, 2023); *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>6</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>7</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>8</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).

<sup>9</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>10</sup> *S.C.*, Docket No. 21-0929 (issued April 28, 2023); *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).

## ANALYSIS

The Board finds that appellant has not met her burden of proof to establish a back condition causally related to the accepted August 13, 2023 employment incident.

In a January 31, 2024 report, Dr. Gould diagnosed chronic left-sided low back pain with left-sided sciatica and opined that appellant was injured at work by a trailer door. However, he did not provide a rationalized medical opinion, which explained the basis of appellant's diagnosed sciatica condition and its relationship to the accepted August 13, 2023 employment incident. Medical opinion evidence must offer a rationalized explanation of how the specific employment incident or work factors, physiologically caused the diagnosed condition. Therefore, Dr. Gould's report is insufficient to establish causal relationship.<sup>11</sup>

In an August 15, 2023 report, Dr. Selvarajah diagnosed acute left-sided low back pain without sciatica. On December 4, 2023 Dr. Gould diagnosed low back pain with left-sided radicular pain, suspected lumbar disc herniation and suspected a significant component of left sacroiliitis. The Board has held that pain is a description of a symptom, not a clear diagnosis of a medical condition.<sup>12</sup> As such, these reports are insufficient to meet appellant's burden of proof.

Appellant also submitted notes signed by nurse practitioners, a physician assistant, and a physical therapist. The Board has long held that certain healthcare providers such as physician assistants, nurse practitioners, and physical therapist are not considered physicians as defined under FECA.<sup>13</sup> Their medical findings, reports and/or opinions will not suffice for purposes of establishing entitlement to FECA benefits.<sup>14</sup> Consequently, these notes are also insufficient to establish the claim.

The remaining medical evidence of record consists of reports of diagnostic studies. The Board has held that diagnostic studies, standing alone, lack probative value, and are insufficient to establish the claim.<sup>15</sup> Therefore, these reports are also insufficient to meet appellant's burden of proof.

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<sup>11</sup> *O.R.*, Docket No. 24-0184 (issued February 27, 2024); *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>12</sup> *R.P.*, Docket No. 24-0002 (issued January 24, 2024); *D.R.*, Docket No. 18-1408 (issued March 1, 2019); *D.A.*, Docket No. 18-0783 (issued November 8, 2018).

<sup>13</sup> Section 8101(2) of FECA 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. 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); *L.S.*, Docket No. 19-1231 (issued March 30, 2021) (a physician assistant and nurse practitioner are not considered physicians as defined under FECA); *R.L.*, Docket No. 19-0440 (issued July 8, 2019) (a physical therapist is not considered a physician as defined under FECA). *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).

<sup>14</sup> *Id.*

<sup>15</sup> *J.K.*, Docket No. 20-0591 (issued August 12, 2020); *A.B.*, Docket No. 17-0301 (issued May 19, 2017).

As appellant has not submitted rationalized medical evidence establishing a back condition causally related to the accepted August 13, 2023 employment incident, the Board finds that she 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 back condition causally related to the accepted August 13, 2023 employment incident.

**ORDER**

**IT IS HEREBY ORDERED THAT** the February 21, 2024 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: May 29, 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