United States Department of Labor
Employees' Compensation Appeals Board

M.G., Appellant	)	
and	)	**Docket No. 23-1049**
	)	**Issued: November 26, 2024**
DEPARTMENT OF THE AIR FORCE, 565th AIRCRAFT MAINTENANCE SQUADRON, TINKER AIR FORCE BASE, OK, 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
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On August 3, 2023 appellant filed a timely appeal from a July 24, 2023 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act[1] (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.[2]

ISSUE

The issue is whether appellant has met his burden of proof to establish a medical condition causally related to the accepted May 3, 2023 employment incident.

[1] 5 U.S.C. § 8101 *et seq*.

[2] The Board notes that, following the July 24, 2023 decision, appellant submitted additional evidence to OWCP. 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*.

FACTUAL HISTORY

On May 5, 2023 appellant, then a 35-year-old electronic integrated systems mechanic, filed a traumatic injury claim (Form CA-1) alleging that on May 3, 2023 he sustained a back injury when climbing into the copilot seat of a B-52 airplane, and felt a snap/pop in his lower back as he twisted his body followed by excruciating pain causing him to fall to the floor while in the performance of duty. On the reverse side of the claim form, appellant's supervisor acknowledged that appellant was injured in the performance of duty. Appellant stopped work on the date of the alleged injury.

On May 5, 2023 the employing establishment issued appellant an authorization for examination and/or treatment (Form CA-16), which indicated that he was authorized to seek medical treatment due to his May 3, 2023 injury. The form was signed by Dr. Philip Beck, an osteopath specializing in family medicine.

In a May 8, 2023 attending physician's report, Part B of the Form CA-16, Dr. Steve Randall, Board-certified in sports medicine and pain management, discussed his initial examination of appellant on May 3, 2023 regarding the alleged employment incident. He diagnosed lumbar spondylosis and lumbar radiculitis and indicated with an affirmative checkmark that the diagnoses were caused or aggravated by the claimed employment incident. Dr. Randall recommended a magnetic resonance imaging (MRI) scan of the lumbar spine to determine the extent of injury. Appellant also provided a May 8, 2023 pain management questionnaire.

In a May 9, 2023 report, Andrew Jimerson, a registered nurse, evaluated appellant for complaints of low back pain following a May 3, 2023 work-related injury. He diagnosed radiculopathy, lumbosacral region; spondylosis without myelopathy or radiculopathy, lumbosacral region; and myalgia, unspecified site.

In a May 17, 2023 development letter, OWCP informed appellant of the deficiencies of his claim. It advised him of the type of factual and medical evidence required and provided a questionnaire for his completion. OWCP afforded appellant 60 days to submit the requested evidence.

Following OWCP's development letter, appellant submitted additional evidence in support of his claim.

On May 3, 2023 appellant received treatment at the emergency department and was released to work on May 6, 2023. An unsigned May 3, 2023 after-visit summary documented treatment on that date in the emergency department for acute midline low back pain with left-sided sciatica.

In a May 5, 2023 form report, Dr. Beck reported that appellant was unable to work as a result of a new work-related injury.

A May 16, 2023 MRI scan of the lumbar spine demonstrated an impression of L5 bilateral pars defect with associated moderate to advanced L5-S1 facet arthropathy and minimal grade 1 anterior listhesis of L5 on S1, and L5-S1 broad asymmetrical bulging/protrusion with a prominent left bilateral component with an associated prominent annular tear extending to the left foramen contributing to moderate-to-severe left foraminal stenosis.

In a May 17, 2023 attending physician's report (Form CA-20), Dr. Randall diagnosed lumbosacral radiculitis. He checked a box marked "Yes" indicating that the diagnosed condition was caused or aggravated by the employment activity, noting that the condition began on May 3, 2023 when appellant was getting into the passenger seat of a plane and felt/heard a pop in his low back resulting in immediate pain as he stretched his leg. Dr. Randall noted that appellant was disabled from work from May 8 through 22, 2023.

In a May 22, 2023 report, Mr. Jimerson documented examination findings and treatment for appellant's low back condition. He diagnosed radiculopathy, lumbosacral region; spondylosis without myelopathy or radiculopathy, lumbosacral region; myalgia; and spinal stenosis, lumbosacral region.

In a May 25, 2023 progress report, Dr. Randall reported evaluating appellant for worsening low back and radiating bilateral leg pain. He noted that appellant had a 45-minute drive that caused a significant increase in the burning/tingling sensation in his buttock. Dr. Randall documented complaints of exacerbated left leg pain and noted disc bulges on his MRI scan, which were most likely the source of his back and left leg pain. He diagnosed radiculopathy, lumbosacral region; spondylosis without myelopathy or radiculopathy, lumbosacral region; myalgia, unspecified site; spinal stenosis, lumbosacral region; and neuralgia and neuritis.

In a follow-up letter dated June 21, 2023, OWCP advised appellant that it had conducted an interim review, and the evidence remained insufficient to establish his claim. It noted that he had 60 days from the May 17, 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.

In support of his claim, appellant submitted a June 20, 2023 progress report, wherein Mr. Jimerson documented treatment for his low back condition and provided diagnoses.

In an undated report received by OWCP on June 23, 2023, Dr. Randall discussed the history of appellant's medical treatment and the May 3, 2023 employment incident. He noted that appellant denied any symptoms prior to his work injury, which had since progressively worsened. Dr. Randall reported objective findings of decreased range of motion with pain on flexion, rotation, and extension of the low back, positive spasm observed in the low back, and straight leg raise positive bilaterally. He discussed appellant's lumbar spine MRI scan, which revealed a disc bulge and annular tear consistent with a traumatic injury of twisting/stretching, explaining that this results in moderate to severe left foraminal stenosis homogenous with appellant's symptoms and mechanism of injury. Dr. Randall opined that appellant's "symptoms are a cause of the event that occurred on [May 3, 2023] while working as a federal employee." He requested that lumbar radiculitis and lumbar spondylosis with radiculopathy be accepted as work-related conditions.

On July 10, 2023 OWCP received a report of even date from Dr. Randall documenting appellant's treatment for his May 3, 2023 injury, diagnostic and clinical findings, and history of injury. Dr. Randall noted evaluating appellant from May 8 through June 20, 2023 for low back pain, which began following a May 3, 2023 work-related injury. Appellant reported a loud pop in his back followed by immediate pain as he was sitting in the passenger seat of a plane. Dr. Randall noted that the pain was worse when walking, standing, and sitting for long periods of time resulting in decreased strength in his back. He noted review of diagnostic studies and explained that appellant's lumbar MRI scan revealed disc bulge with foraminal stenosis and facet hypertrophy at

L5-S1. Dr. Randall diagnosed radiculopathy, lumbosacral region; spondylosis without myelopathy or radiculopathy, lumbosacral region; myalgia; spinal stenosis, lumbosacral region; and neuralgia and neuritis. He opined that, based on appellant's history and physical examination findings, the injury described by appellant was the source of his complaints as he did not have any back pain and shooting leg pain prior to the injury.

In a July 17, 2023 report, Dr. Randall documented appellant's examination findings and diagnosed radiculopathy, lumbosacral region; spondylosis without myelopathy or radiculopathy, lumbosacral region; myalgia; spinal stenosis, lumbosacral region; neuralgia and neuritis; and opioid dependence. He indicated that appellant had work restrictions and opined that his conditions were a result of his work-related injury.

By decision dated July 24, 2023, OWCP accepted that the May 3, 2023 employment incident occurred. However, it denied appellant's claim, finding that the medical evidence of record was insufficient to establish that his diagnosed medical condition was causally related to the accepted May 3, 2023 employment incident.

LEGAL PRECEDENT

An employee seeking benefits under FECA[3] 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. 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 medical evidence to establish that 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

[3] *Supra* note 2.

[4] *E.K.*, Docket No. 22-1130 (issued December 30, 2022); *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] *S.H.*, Docket No. 22-0391 (issued June 29, 2022); *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] *E.H.*, Docket No. 22-0401 (issued June 29, 2022); *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] *H.M.*, Docket No. 22-0343 (issued June 28, 2022); *T.J.*, Docket No. 19-0461 (issued August 11, 2020); *K.L.*, Docket No. 18-1029 (issued January 9, 2019); *John J. Carlone*, 41 ECAB 354 (1989).

[8] *S.M.*, Docket No. 22-0075 (issued May 6, 2022); *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).

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.[9]

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish a medical condition causally related to the accepted May 3, 2023 employment incident.

In support of his claim, appellant submitted medical reports from Dr. Randall dated May 25 through July 17, 2023 wherein he documented appellant's treatment for his claimed May 3, 2023 injury, diagnostic and clinical findings, and history of injury. Dr. Randall diagnosed radiculopathy of the lumbosacral region, spondylosis without myelopathy or radiculopathy of the lumbosacral region, myalgia, spinal stenosis of the lumbosacral region, neuralgia and neuritis, and opioid dependence and opined that appellant's conditions were a result of his work-related injury. He opined that appellant's "symptoms are a cause of the event that occurred on [May 3, 2023] while working as a federal employee." While Dr. Randall provided an opinion as to the cause of appellant's diagnosed conditions, he did not support his opinion with medical rationale explaining how the accepted May 3, 2023 employment incident caused his conditions.[10] Without explaining how, physiologically, the specific effects of climbing into the copilot seat of a B-52 airplane on May 3, 2023 caused, contributed to, or aggravated the diagnosed conditions, the opinion in these reports is of limited probative value and insufficient to establish the claim.[11]

Dr. Randall's May 8, 2023 Part B of the Form CA-16 and May 17, 2023 Form CA-20 reports are also insufficient to establish appellant's claim. He diagnosed lumbar spondylosis and lumbar radiculitis and indicated with an affirmative checkmark that the diagnoses were caused or aggravated by the claimed employment incident. However, Dr. Randall provided no rationale for his opinion on causal relationship. The Board has held that when a physician's opinion on causal relationship consists only of checking "Yes" to a form question, without more by the way of medical rationale, that opinion is of limited probative value and is insufficient to establish causal relationship.[12] As such, these reports are insufficient to establish the claim.

Dr. Beck's May 5, 2023 form is also insufficient to establish appellant's claim as the physician failed to provide a diagnosed medical condition when discussing appellant's work restrictions. The Board has held that medical reports lacking a firm diagnosis and a rationalized

[9] *J.D.*, Docket No. 22-0935 (issued December 16, 2022); *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).

[10] *S.M.*, Docket No. 24-0542 (issued July 11, 2024); *T.W.*, Docket No. 20-0767 (issued January 13, 2021); *L.D.*, Docket No. 19-1301 (issued January 29, 2020); *S.C.*, Docket No. 18-1242 (issued March 13, 2019).

[11] *See A.G.*, Docket No. 24-0647 (issued July 31, 2024); *T.F.*, Docket No. 20-0260 (issued June 12, 2020); *D.J.*, Docket No. 18-0694 (issued March 16, 2020); *K.G.*, Docket No. 18-1598 (issued January 7, 2020); *K.O.*, Docket No. 18-1422 (issued March 19, 2019).

[12] *S.T.*, Docket No. 22-1025 (issued January 3, 2023); *Lillian M. Jones*, 34 ECAB 379, 381 (1982).

medical opinion regarding causal relationship are of no probative value.[13] Therefore, this evidence is insufficient to establish appellant's claim.

OWCP also received unsigned after-visit summaries dated May 3, 2023 documenting treatment at the emergency department. However, 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.[14]

Appellant also submitted treatment notes from a registered nurse. However, certain healthcare providers such as nurses and physician assistants are not considered physicians as defined under FECA and their reports do not constitute competent medical evidence.[15] Consequently, these medical findings or opinions are insufficient to meet appellant's burden of proof.

Appellant also submitted diagnostic test results, including the May 16, 2023 lumbar spine MRI scan. The Board has held, however, that diagnostic studies, standing alone, lack probative value as they do not address whether the employment incident caused or aggravated any of the diagnosed conditions.[16] For this reason, this remaining evidence is insufficient to meet appellant's burden of proof.

As the medical evidence of record is insufficient to establish a medical condition causally related to the accepted May 3, 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 a medical condition causally related to the accepted May 3, 2023 employment incident.

[13] *See A.C.*, Docket No. 20-1510 (issued April 23, 2021); *J.P.*, Docket No. 20-0381 (issued July 28, 2020); *R.L.*, Docket No. 20-0284 (issued June 30, 2020); *see also L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

[14] *L.B.*, Docket No. 21-0353 (issued May 23, 2022); *T.D.*, Docket No. 20-0835 (issued February 2, 2021); *Merton J. Sills*, 39 ECAB 572, 575 (1988).

[15] Section 8102(2) of FECA provides as follows: (2) 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. § 8102(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); *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 R.F.*, Docket No. 24-0112 (issued April 15, 2024) (advanced practice nurses are not considered physicians as defined under FECA); *S.S.*, Docket No. 21-1140 (issued June 29, 2022) (physician assistants are not considered physicians under FECA and are not competent to provide medical opinions); *P.S.*, Docket No. 17-0598 (issued June 23, 2017) (registered nurses are not considered physicians as defined under FECA).

[16] *F.D.*, Docket No. 19-0932 (issued October 3, 2019).

ORDER

IT IS HEREBY ORDERED THAT the July 24, 2023 decision of the Office of Workers' Compensation Programs is affirmed.[17]

Issued: November 26, 2024
Washington, DC

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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

[17] The Board notes that the employing establishment issued a Form CA-16, dated May 5, 2023. 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); *V.S.*, Docket No. 20-1034 (issued November 25, 2020); *J.G.*, Docket No. 17-1062 (issued February 13, 2018); *Tracy P. Spillane*, 54 ECAB 608 (2003).