United States Department of Labor
Employees' Compensation Appeals Board

C.W., Appellant	)	
and	)	**Docket No. 24-0854**
	)	**Issued: September 25, 2024**
U.S. POSTAL SERVICE, POST OFFICE, Memphis, TN, 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
PATRICIA H. FITZGERALD, Deputy Chief Judge
JANICE B. ASKIN, Judge

JURISDICTION

On August 19, 2024 appellant filed a timely appeal from a February 26, 2024 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 her burden of proof to establish a diagnosed medical condition in connection with the accepted November 27, 2023 employment incident.

[1] 5 U.S.C. § 8101 *et seq*.

[2] The Board notes that, following the February 26, 2024 decision, appellant submitted additional evidence on appeal. However, the Board's *Rules of Procedures* 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 December 1, 2023 appellant, then a 53-year-old city carrier, filed a traumatic injury claim (Form CA-1) alleging that on November 27, 2023 she sustained a right finger injury when attempting to open a cluster box that was jammed with mail while in the performance of duty. She stopped work on December 4, 2023 and worked intermittently thereafter.

On December 3, 2023 Allyson Dormois, a nurse practitioner, treated appellant and diagnosed work-related right finger injury and paronychia of the right index finger. She prescribed a finger splint. In a duty status report (Form CA-17) of even date, Ms. Dormois diagnosed paronychia finger injury and returned appellant to work with restrictions. A December 3, 2023 x-ray of the right second digit revealed no displaced fracture or dislocation and mild soft tissue prominence at the dorsal aspect of the distal phalanx.

In a December 11, 2023 development letter, OWCP advised appellant of the deficiencies of her claim. It advised her of the type of factual and medical evidence needed and provided a questionnaire for her completion. OWCP afforded appellant 60 days to submit the necessary evidence.

OWCP received additional evidence. In an attending physician's report (Form CA-20),[3] Ms. Dormois recounted appellant's history of injury and indicated a diagnosis of work-related injury and paronychia of the right index finger. She checked a box marked "Yes" indicating that appellant's condition was caused or aggravated by the employment incident. Ms. Dormois prescribed a finger brace and returned appellant to light-duty work.

Appellant was treated by Kimberly Hudson, a nurse practitioner, on December 7, 2023. In a Form CA-17, Ms. Hudson diagnosed paronychia finger injury and returned appellant to work with restrictions.

In a follow-up development letter dated January 10, 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 11, 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.

OWCP received additional evidence. In a report dated December 3, 2023, Ms. Dormois treated appellant for pain and swelling of her right index finger. Appellant reported that on November 27, 2023, she was attempting to release a mailbox when her right index finger got caught in the mailbox. Ms. Dormois diagnosed work-related injury, right finger injury, and paronychia of the right index finger and returned appellant to work.

On December 7, 2023 appellant was treated by Ms. Hudson, a nurse practitioner, in follow up for a right finger injury. Appellant reported persistent pain and tingling. Ms. Hudson diagnosed work-related injury, right finger injury, and paronychia of the right index finger. She returned appellant to work. On December 11, 2023 Ms. Hudson treated appellant for persistent pain, swelling, and tenderness of the right index finger. Appellant reported no improvement in her symptoms and noted having difficulty gripping items. Ms. Hudson referred appellant to an

[3] The date of the document was illegible.

orthopedist for evaluation. In a visit summary of even date, she diagnosed work-related injury, right finger injury, and paronychia of the right index finger. Ms. Hudson returned appellant to work on December 12, 2023.

In an undated statement, appellant indicated that she did not realize that she was required to be treated by a physician. She noted that the x-rays were signed by a physician.

The record before the Board also contains a copy of only the first page of Ms. Dormois' December 3, 2023 report which was submitted on February 16, 2024.

By decision dated February 26, 2024, OWCP denied appellant's traumatic injury claim, finding that the evidence of record was insufficient to establish a medical diagnosis in connection with the accepted November 27, 2023 employment incident. It concluded, therefore, that the requirements had not been met to establish an injury as defined under FECA.

LEGAL PRECEDENT

An employee seeking benefits under FECA[4] 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 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. 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.[8]

The medical evidence required to establish a causal relationship 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

[4] *Id*.

[5] *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).

[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.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).

[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).

by medical rationale explaining the nature of the relationship between the diagnosed condition and specific employment incident identified by the employee.[10]

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish a diagnosed medical condition in connection with the accepted November 27, 2023 employment incident.

Appellant submitted reports from Ms. Dormois and Ms. Hudson, both nurse practitioners. The Board has held that medical reports signed solely by nurse practitioners are of no probative value because these medical providers are not considered physicians as defined under FECA.[11] Therefore, these reports are of no probative value and are insufficient to establish appellant's claim.

As the medical evidence of record is insufficient to establish a diagnosed medical condition in connection with the accepted November 27, 2023 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 diagnosed medical condition in connection with the accepted November 27, 2023 employment incident.

[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] 5 U.S.C. § 8101(2) provides that a physician includes surgeons, osteopathic practitioners, podiatrists, dentists, clinical psychologists, optometrists, and chiropractors within the scope of their practice as defined by state law. *See id.* at § 8101(2); 20 C.F.R. § 10.5(t). *See also* Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3a (May 2023); *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).

ORDER

IT IS HEREBY ORDERED THAT the February 26, 2024 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: September 25, 2024
Washington, DC

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

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board