United States Department of Labor
Employees' Compensation Appeals Board

S.N., Appellant	)	
and	)	**Docket No. 22-0011**
	)	**Issued: May 8, 2023**
DEPARTMENT OF THE ARMY, NATIONAL CAPITAL REGION MEDICAL DIRECTORATE, Bethesda, MD, 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 October 4, 2021 appellant filed a timely appeal from a September 23, 2021 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 to consider the merits of this case.

ISSUE

The issue is whether appellant has met her burden of proof to establish a diagnosed medical condition in connection with the accepted August 2, 2021 employment incident.

FACTUAL HISTORY

On August 13, 2021 appellant, then a 60-year-old health aid and technician, filed a traumatic injury claim (Form CA-1) alleging that on August 2, 2021 at 6:04 a.m. she sustained

[1] 5 U.S.C. § 8101 *et seq.*

contusions, muscle pain on the right side of her neck, shoulder, upper back, arm, and right, body aches, and abrasions when she was struck by a vehicle as she was walking in front of the firehouse on her way to work while in the performance of duty. On the reverse side of the claim form, the employing establishment contended that she was not injured in the performance of duty as she was on her way to work at the time of the injury. It noted that appellant's regular work shift was 7:30 a.m. to 4:00 p.m. She stopped work on August 2, 2021 and returned on August 4, 2021.

In support of her claim, appellant provided two August 2, 2021 traffic accident reports indicating that she was injured at 6:04 a.m. on base at Naval Support Activity Bethesda (NSAB) within 10 feet of the firehouse building. A civilian police officer, J.H., completed an accident report which indicated that she had a minor injury consisting of abrasions indicative of a fall, after she was struck by the right front bumper of a car on her left side and fell onto her right side. He reported that appellant was transported to a local hospital.

In an August 19, 2021 development letter, OWCP informed 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. In a separate letter of even date, OWCP requested that the employing establishment explain whether appellant was injured on the only route from the parking area into the building where she worked, whether it controlled the parking facilities, whether the public was permitted to use the parking lot, whether there were assigned spaces, and who paid for the costs of parking. It afforded both parties 30 days to respond. Appellant did not respond.

The employing establishment responded to OWCP's development questionnaire on August 31, 2021. It asserted that the parking facilities where appellant fell were on its property, that the public was not allowed to use the parking lot, that appellant was required to park in an employee parking lot, and that the lot she chose was the closest to her work site. The employing establishment paid for the costs of parking, but there were no assigned spaces. It noted that there were different ways to approach appellant's work site.

OWCP received notes dated September 10 and 15, 2021, wherein a provider with an illegible signature, indicated that appellant was an active patient and had received therapy.

By decision dated September 23, 2021, OWCP accepted that the August 2, 2021 employment incident occurred as alleged finding that the employing establishment had confirmed that it controlled the parking facilities. However, it denied the claim finding that the medical evidence of record was insufficient to establish a medical diagnosis in connection with the accepted August 2, 2021 employment incident. OWCP concluded, therefore, that the requirements had not been met for establishing an injury in the performance of duty as defined by FECA.

LEGAL PRECEDENT

An employee seeking benefits under FECA[2] 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

[2] *Supra* note 1.

limitation of FECA,[3] 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.[4] 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.[5]

To determine if an employee has sustained a traumatic injury in the performance of duty, OWCP begins with an analysis of whether fact of injury has been established. Fact of injury consists of two components that must be considered in conjunction with one another. The first component is whether the employee actually experienced the employment incident that allegedly occurred.[6] The second component is whether the employment incident caused a personal injury.[7]

Rationalized medical opinion evidence is required to establish causal relationship. The opinion of the physician must be based on a complete factual and medical background, 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 specific employment incident.[8] Neither the mere fact that, a disease or condition manifests itself during a period of employment, nor the belief that the disease or condition was caused or aggravated by employment factors or incidents is sufficient to establish causal relationship.[9]

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish a diagnosed medical condition in connection with the accepted August 2, 2021 employment incident.

OWCP received records dated September 10 and 15, 2021 wherein providers with illegible signatures noted that appellant was an active patient and had received therapy. The mere acknowledgement that appellant is a patient, does not constitute a valid medical diagnosis necessary to establish fact of injury.[10] Furthermore, there is no evidence that these documents are from a physician. The Board has held that reports that are unsigned or bear an illegible signature

[3] *K.W.*, Docket No. 20-1237 (issued September 24, 2021); *S.B.*, Docket No. 17-1779 (issued February 7, 2018); *J.P.*, 59 ECAB 178 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

[4] *J.M.*, Docket No. 17-0284 (issued February 7, 2018); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

[5] *R.R.*, Docket No. 19-0048 (issued April 25, 2019); *K.M.*, Docket No. 15-1660 (issued September 16, 2016); *L.M.*, Docket No. 13-1402 (issued February 7, 2014); *Delores C. Ellyett*, 41 ECAB 992 (1990).

[6] *T.M.*, Docket No. 19-0380 (issued June 26, 2019); *Elaine Pendleton*, 40 ECAB 1143 (1989).

[7] *V.Y.*, Docket No. 22-0550 (issued October 27, 2022); *M.H.*, Docket No. 18-1737 (issued March 13, 2019); *John J. Carlone*, 41 ECAB 354 (1989).

[8] *S.S.*, Docket No. 18-1488 (issued March 11, 2019).

[9] *J.L.*, Docket No. 18-1804 (issued April 12, 2019).

[10] *See S.K.*, Docket No. 22-0636 (issued October 27, 2022) (finding that a report of an injury or a motor vehicle accident does not constitute a valid medical diagnosis necessary to establish fact of injury).

lack proper identification and cannot be considered probative medical evidence as the author cannot be identified as a physician.[11]

As the medical evidence of record does not contain a valid medical diagnosis from a qualified physician in connection with the accepted August 2, 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 diagnosed medical condition in connection to the accepted August 2, 2021 employment incident.

ORDER

IT IS HEREBY ORDERED THAT the September 23, 2021 merit decision of the Office of Workers' Compensation Programs is affirmed.

Issued: May 8, 2023
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

[11] *See V.Y., supra* note 7; *M.T.*, Docket No. 21-0783 (issued December 27, 2021); *Merton J. Sills*, 39 ECAB 572, 575 (1988); *see also Bradford L. Sullivan*, 33 ECAB 1568 (1982) (a medical report may not be considered as probative medical evidence if there is no indication that the person completing the report qualifies as a physician as defined in FECA).