

**United States Department of Labor
Employees' Compensation Appeals Board**

| | | |
|---|---|-----------------------------|
| _____ |) | |
| R.G., Appellant |) | |
| |) | |
| and |) | Docket No. 23-0190 |
| |) | Issued: May 22, 2023 |
| U.S. POSTAL SERVICE, CERNON POST |) | |
| OFFICE, Vacaville, CA, Employer |) | |
| _____ |) | |

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
JANICE B. ASKIN, Judge
VALERIE D. EVANS-HARRELL, Alternate Judge
JAMES D. MCGINLEY, Alternate Judge

JURISDICTION

On November 23, 2022 appellant filed a timely appeal from a November 4, 2022 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act¹ (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

ISSUE

The issue is whether appellant has met her burden of proof to establish a back condition causally related to the accepted April 21, 2022 employment incident.

¹ 5 U.S.C. § 8101 *et seq.*

FACTUAL HISTORY

On April 26, 2022 appellant, then 44-year-old rural carrier, filed a traumatic injury claim (Form CA-1) alleging that on April 21, 2022 she sustained a lower back injury while lifting a parcel into the back of her postal vehicle while in the performance of duty.

In support of her claim, appellant submitted a work release form completed by Lisa Thomas, a physician assistant, advising that appellant had been seen on April 21, 2022.

In a development letter dated April 27, 2022, OWCP noted the evidence received and informed appellant of the deficiencies in her claim. It advised her of the medical and factual evidence required to establish her claim. OWCP afforded appellant 30 days to provide the requested information.

OWCP subsequently received progress/visit notes dated April 21, 2022 from Ms. Thomas.

In a report dated May 12, 2022, Dr. Joseph M. Centeno, a Board-certified orthopedic surgeon, advised that appellant was being evaluated for low back pain resulting from an April 21, 2022 incident. He related that the incident occurred at work when she lifted an approximate 50-pound box and then slid it into the back of her truck. Dr. Centeno noted that appellant had prior low back injuries in 2008 and 2014. He reported that he found no significant degenerative changes. A review of appellant's lumbar x-ray revealed normal lumbar stature and alignment and general preservation of lumbar disc spaces. Dr. Centeno related diagnoses of lumbar strain, low back pain with radiculopathy, and chronic pain syndrome. He also indicated that appellant was disabled from work.

Dr. Centeno, in a May 31, 2022 report, diagnosed lumbar strain and low back pain with radiculopathy. On physical examination he reported that appellant had normal lumbar contour, antalgic gait, but with bilateral tenderness and mild spasm on paraspinal palpation from L1 to the sacrum, as well as flexion and extension limited by pain. Dr. Centeno also noted that she had experienced chronic pain syndrome for at least three months.

By decision dated June 10, 2022, OWCP denied appellant's claim finding the evidence insufficient to establish that her diagnosed medical condition was causally related to the accepted April 21, 2022.

On August 8, 2022 appellant requested reconsideration and submitted additional evidence.

In a progress report dated July 14, 2022, Dr. Centeno noted appellant's history of medical treatment. He diagnosed lumbar strain and low back pain with radiculopathy, which he attributed to the April 21, 2022 work incident. In support of his conclusion, Dr. Centeno reported that appellant developed significant pain and was taken to the emergency room after pushing a box to the back of her postal vehicle. He explained that her lumbar condition "appeared to be directly related and causation for work."

By decision dated November 4, 2022, OWCP denied modification.

LEGAL PRECEDENT

An employee seeking benefits under FECA² 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 FECA, that the claim was timely filed within the applicable time limitation period 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 whether 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 experienced the employment incident that allegedly occurred at the time, place, and in the manner alleged.⁶ The second component is whether the employment incident caused a personal injury.⁷

Causal relationship is a medical question that requires rationalized medical opinion evidence to resolve the issue.⁸ The opinion of the physician must be based on a complete factual and medical background of the claimant, 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 factors identified by the claimant.⁹ 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, is sufficient to establish causal relationship.¹⁰

² *Id.*

³ *B.B.*, Docket No. 21-0284 (issued October 5, 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).

⁴ *B.B.*, *id.*; *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).

⁵ *B.B.*, *id.*; *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).

⁶ *R.K.*, Docket No. 19-0904 (issued April 10, 2020); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁷ *Y.D.*, Docket No. 19-1200 (issued April 6, 2020); *John J. Carlone*, 41 ECAB 354 (1989).

⁸ *J.F.*, Docket No. 18-0492 (issued January 16, 2020); *Jacqueline M. Nixon-Steward*, 52 ECAB 140 (2000).

⁹ *A.M.*, Docket No. 18-0562 (issued January 23, 2020); *Leslie C. Moore*, 52 ECAB 132 (2000).

¹⁰ *E.W.*, Docket No. 19-1393 (issued January 29, 2020); *Gary L. Fowler*, 45 ECAB 365 (1994).

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish a back condition causally related to the accepted April 21, 2022 work incident.

In support of her claim, appellant submitted several medical reports from Dr. Centeno. In reports dated May 12 and 31, 2022, Dr. Centeno noted her April 21, 2022 history of injury and that she had prior low back injuries in 2008 and 2014. He reported finding no significant degenerative changes. Dr. Centeno diagnosed lumbar strain, low back pain with radiculopathy, and chronic pain syndrome based on appellant's reported pain of at least three months in duration. He also indicated that she was disabled from work. However, Dr. Centeno did not provide an opinion on causal relationship. The Board has held that reports that do not provide an opinion on causal relationship are of no probative value.¹¹ Therefore, this evidence is insufficient to establish this claim.

In a July 14, 2022 report, Dr. Centeno diagnosed lumbar strain and low back pain with radiculopathy, which he attributed to the April 21, 2022 work incident. He explained that, after appellant pushed a box to the back of her postal vehicle, she developed significant pain and was taken to the emergency room. Dr. Centeno opined that her lumbar condition appeared to be directly and causally related to her work. While he opined that appellant's lumbar strain and low back pain were caused by the work incident, he failed to provide a rationalized medical opinion supporting causation. The Board has held that a medical opinion should offer a medically-sound and rationalized explanation by the physician of how the specific employment incident physiologically caused or aggravated the diagnosed conditions.¹² Medical evidence which does not explain the nature of the relationship between the diagnosed condition and the specific employment incident is insufficient to meet the claimant's burden of proof.¹³ As such, this report from Dr. Centeno is insufficient to meet appellant's burden of proof.

OWCP received progress/visit notes from Ms. Thomas, a physician assistant. Physician assistants, however, are not considered physicians as defined under FECA.¹⁴ Consequently, their

¹¹ *D.R.*, Docket No. 22-0921 (issued December 29, 2022); *B.B.*, *supra* note 3; *D.C.*, Docket No. 19-1093 (issued June 25, 2020); *see L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

¹² *See D.R.*, *id.*; *V.D.*, Docket No. 20-0884 (issued February 12, 2021); *Y.D.*, Docket No. 16-1896 (issued February 10, 2017).

¹³ *D.R.*, *id.*; *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).

¹⁴ 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); *D.R.*, *id.* (physician assistants are not considered physicians 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); *see also P.D.*, Docket No. 21-0920 (issued January 12, 2022).

medical findings and/or opinions will not suffice for purposes of establishing entitlement to FECA benefits.¹⁵

As appellant has not submitted any rationalized medical evidence establishing a back condition causally related to the accepted April 21, 2022 employment incident, she has failed to meet 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 April 21, 2022 employment incident.

ORDER

IT IS HEREBY ORDERED THAT the November 4, 2022 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: May 22, 2023
Washington, DC

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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

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

¹⁵ *Id.*