



diagnosed thoracic muscle injury and low back pain on March 19, 2014. He prescribed physical therapy on March 19, 2014, which appellant attended. In a note dated March 27, 2014, Dr. Donelan indicated that she could return to work on March 31, 2014. Appellant sought medical treatment with a medical assistant, Kathleen A. Wayen, on March 19, 2014 due to back pain following a fall. On March 20, 2014 Dr. Christopher Fischer, a Board-certified radiologist, performed x-rays due to right-sided rib and back pain incurred after a motor vehicle accident.<sup>2</sup> He found thoracic spondylosis without fracture or listhesis. Appellant attended additional physical therapy. Thereafter, she returned to full duty on March 31, 2014.

OWCP requested from appellant, additional factual and medical evidence in support of her claim in a letter dated May 29, 2014. Appellant did not respond within the time allotted.

By decision dated June 30, 2014, OWCP denied appellant's claim on the grounds that she had not submitted sufficient medical evidence to establish that a diagnosed condition resulted from her accepted employment injury.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA<sup>3</sup> has the burden of establishing the essential elements of his or her claim by the weight of the reliable, probative and substantial evidence, including the fact that the individual is an "employee of the United States" within the meaning of FECA and that the claim was timely filed within the applicable time limitation period of FECA, that an injury was sustained in the performance of duty as alleged and that any disability or specific condition for which compensation is claimed is causally related to the employment injury.<sup>4</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>5</sup>

OWCP defines a traumatic injury as, "[a] condition of the body caused by a specific event or incident, or series of events or incidents, within a single workday or shift. Such condition must be caused by external force, including stress or strain which is identifiable as to time and place of occurrence and member or function of the body affected."<sup>6</sup> To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it must first 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, place and in the manner alleged.<sup>7</sup> Second, the employee must submit

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<sup>2</sup> The radiology report indicates that appellant reports right-sided rib and back pain after motor vehicle accident. There is no other evidence she was involved in a motor vehicle accident. Appellant was referred to the radiologist for x-rays by Dr. Donelan who was treating her for her fall on ice. As such, the radiologist's reference to a motor vehicle accident appears to be a scrivener's error.

<sup>3</sup> 5 U.S.C. §§ 8101-8193.

<sup>4</sup> *Kathryn Haggerty*, 45 ECAB 383, 388 (1994); *Elaine Pendleton*, 41 ECAB 1143 (1989).

<sup>5</sup> *Victor J. Woodhams*, 41 ECAB 345 (1989).

<sup>6</sup> 20 C.F.R. § 10.5(ee).

<sup>7</sup> *John J. Carlone*, 41 ECAB 354 (1989).

sufficient evidence, generally only in the form a medical evidence, to establish that the employment incident caused a personal injury.<sup>8</sup>

A medical report is of limited probative value on a given medical question if it is unsupported by medical rationale.<sup>9</sup> Medical rationale includes a physician's reasoned opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment activity. The opinion of the physician must be based on a complete factual and medical background of the claim, 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 activity or factors identified by the claimant.<sup>10</sup>

### ANALYSIS

OWCP accepted that on March 19, 2014 appellant filed a claim alleging that she slipped in the performance of duty and fell injuring her back. In support of her claim, appellant submitted medical evidence from Drs. Donelan and Fischer.

Dr. Donelan completed a report dated March 19, 2014 and diagnosed thoracic muscle injury and low back pain. He did not further describe appellant's thoracic muscle injury and did not offer any explanation of how her March 19, 2014 fall resulted in this condition. With regard to Dr. Donelan's diagnosis of low back pain, the Board has held that the mere diagnosis of "pain" does not constitute the basis for payment of compensation.<sup>11</sup> As Dr. Donelan did not provide a clear opinion that appellant's thoracic muscle injury resulted from her accepted employment incident of a fall and did not explain how her fall caused this injury, his report is not sufficient to meet appellant's burden of proof and establish a traumatic injury on March 19, 2014.

In a report dated March 20, 2014, Dr. Fischer stated that he performed x-rays due to appellant's right-sided rib and back pain after a motor vehicle accident. He found thoracic spondylosis without fracture or listhesis. Dr. Fischer indicated that appellant's rib and back pain occurred after a motor vehicle accident rather than following a fall on March 19, 2014. Such history is dubious as previously discussed herein. Dr. Fischer's report does not suggest that appellant sustained a diagnosed condition as a result of her accepted employment incident and is not sufficient to establish appellant's claim for a traumatic injury occurring in the performance of duty.

As neither Dr. Donelan nor Dr. Fischer provide a supportive medical opinion for a diagnosis from the work incident of March 19, 2014, the finding of OWCP must be affirmed.

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<sup>8</sup> *J.Z.*, 58 ECAB 529 (2007).

<sup>9</sup> *T.F.*, 58 ECAB 128 (2006).

<sup>10</sup> *A.D.*, 58 ECAB 149 (2006).

<sup>11</sup> *Robert Broome*, 55 ECAB 339 (2004).

Appellant also submitted a report from a medical assistant and physical therapy notes. As neither a medical assistant<sup>12</sup> nor a physical therapist<sup>13</sup> is a physician as defined by FECA,<sup>14</sup> these records cannot establish a diagnosed condition resulting from appellant's accepted employment-related fall on March 19, 2014.<sup>15</sup>

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 submitted sufficient medical opinion evidence to establish that a diagnosed condition resulted from her accepted March 19, 2014 employment incident. Appellant has therefore failed to meet her burden of proof in establishing a traumatic injury in the performance of duty on that date.

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<sup>12</sup> *D.F.*, Docket No. 12-347 (issued June 18, 2012).

<sup>13</sup> *G.G.*, 58 ECAB 389 (2007).

<sup>14</sup> 5 U.S.C. § 8101(2).

<sup>15</sup> *Merton J. Sills*, 39 ECAB 572 (1988).

**ORDER**

**IT IS HEREBY ORDERED THAT** the June 30, 2014 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: November 19, 2014  
Washington, DC

Christopher J. Godfrey, Chief Judge  
Employees' Compensation Appeals Board

Patricia Howard Fitzgerald, Judge  
Employees' Compensation Appeals Board

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