

ribs when he was involved in a motor vehicle accident in the performance of duty. He did not stop work.

By letter dated March 22, 2012, OWCP advised appellant that additional factual and medical evidence was needed. Appellant was requested to provide dates of examination and treatment, a history of injury given by her to a physician, a detailed description of any findings, the results of all x-rays and laboratory tests, a diagnosis and course of treatment followed and a physician's opinion supported by a medical explanation as to how the reported work incident caused the claimed injury. OWCP explained that the physician's opinion was crucial to his claim and allotted appellant 30 days within which to submit the requested information.

On March 11, 2012 the employing establishment issued appellant a Form CA-16 authorizing treatment at Blue Ridge Regional Hospital. On March 13, 2012 Dr. Rebecca Brooks, a Board-certified family practitioner and emergency department physician at Blue Ridge Regional Hospital, provided emergency room discharge instructions for low back pain. She prescribed medication and advised no heavy lifting or twisting until he was examined by his physician. A March 13, 2012 lumbar spine x-ray read by Dr. Bryon A. Dickerson, a Board-certified radiologist to whom appellant was referred by Dr. Brooks, revealed grade 1 spondylolisthesis L3-4 possibly related to a pars defect, multilevel facet osteoarthritis, right S1 joint, degenerative joint disease (DJD) and negative acute bony abnormality.

By decision dated April 27, 2012, OWCP denied appellant's claim on the grounds that the medical evidence was insufficient to establish that appellant's condition was caused by his employment.

On May 8, 2012 appellant requested reconsideration and submitted additional evidence. In a March 16, 2012 disability certificate, Dr. Joseph J. Antinori, Board-certified in family medicine, cleared appellant to return to work on March 16, 2012 with "no significant limitations." In a report also dated March 16, 2012, he noted that appellant was in a motor vehicle accident on March 11, 2012 in which he had neck and low back pain with light bruising. Dr. Antinori noted that appellant was doing well. He diagnosed lumbago, spondylosis site and degenerative disc disease. Dr. Antinori advised that most of appellant's pain seemed to be related to his deceleration injury. OWCP also received copies of previously submitted reports.

By decision dated July 20, 2012, OWCP denied modification of its prior decision.

LEGAL PRECEDENT

An employee seeking benefits under FECA² has the burden of establishing the essential elements of his or her claim, including the fact 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 period of FECA³ and that an injury was sustained in the performance of duty.⁴ These

² 5 U.S.C. §§ 8101-8193.

³ *Joe D. Cameron*, 41 ECAB 153 (1989).

⁴ *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

are the essential elements of each compensation claim, regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁵

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it must first be determined whether a “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.⁶ Second, the employee must submit sufficient evidence, generally only in the form of medical evidence, to establish that the employment incident caused a personal injury.⁷

ANALYSIS

Appellant alleged that he sustained an injury in the performance of duty on March 11, 2012 when he was involved in a motor vehicle accident in the performance of duty. There is no dispute that he was involved in a motor vehicle accident on March 11, 2012. OWCP found that the first component of fact of injury, the claimed incident, occurred as alleged.

However, the medical evidence is insufficient to establish the second component of fact of injury, that the employment incident caused an injury. The medical reports of record do not establish that a motor vehicle accident on March 11, 2012 caused a personal injury. The medical evidence contains no firm diagnosis, no rationale and no explanation of the mechanism of injury.

Appellant provided reports dated March 16, 2012 from Dr. Antinori. In a separate report also dated March 16, 2012, Dr. Antinori noted that appellant was engaged in a motor vehicle accident and diagnosed lumbago and spondylosis of unspecified site, without mention of myelopathy. He also noted DJD and opined that most of appellant’s pain seemed to be related to his deceleration injury. The Board has held that a diagnosis of “pain” does not constitute the basis for the payment of compensation.⁸ The Board further notes that there is no opinion explaining how any of these conditions such as DJD would be related to the March 11, 2012 incident. Medical reports not containing rationale on causal relation are entitled to little probative value and are generally insufficient to meet an employee’s burden of proof.⁹ In his March 16, 2012 disability certificate, Dr. Antinori merely advised that appellant could return to work without significant limitations. He did not offer an opinion on causal relationship. Medical evidence which does not offer any opinion regarding the cause of an employee’s

⁵ *Delores C. Ellyett*, 41 ECAB 992 (1990).

⁶ *John J. Carlone*, 41 ECAB 354 (1989).

⁷ *Id.*

⁸ *John L. Clark*, 32 ECAB 1618 (1981).

⁹ To meet his or her burden of proof in establishing an injury in the performance of duty, a claimant must submit medical evidence on causal relationship between a diagnosed injury and the employment incident. The Board has held that medical evidence must be in the form of a reasoned opinion by a qualified physician based on a complete and accurate factual and medical history. *Thomas L. Agee*, 56 ECAB 465 (2005).

condition is of limited probative value on the issue of causal relationship.¹⁰ Consequently, the Board finds that this evidence is insufficient to establish appellant's claim.

Dr. Brooks' March 13, 2012 discharge report is also insufficient to establish the claim as she did not address how the March 11, 2012 motor vehicle accident caused or contributed to an injury. Similarly, Dr. Dickerson's March 13, 2012 x-ray report is insufficient as it did not contain an opinion regarding the cause of any diagnosed conditions. For these reasons, appellant has not established that the March 11, 2012 employment incident caused or aggravated a specific injury.

On appeal, appellant submitted new medical evidence. However, the Board has no jurisdiction to review this evidence for the first time on appeal.¹¹

The Board notes that where, as in this case, an employing establishment properly executes a Form CA-16 which authorizes medical treatment as a result of an employee's claim for an employment-related injury, it creates a contractual obligation, which does not involve the employee directly, to pay the cost of the examination or treatment regardless of the action taken on the claim.¹² Although OWCP adjudicated appellant's claim of injury, it did not address the issue of reimbursement pursuant to this Form CA-16.

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 established an injury in the performance of duty.

¹⁰ *Michael E. Smith*, 50 ECAB 313 (1999).

¹¹ 20 C.F.R. § 501.2(c); *James C. Campbell*, 5 ECAB 35 (1952).

¹² *D.M.*, Docket No. 13-535 (issued June 6, 2013). *See also* 20 C.F.R. §§ 10.300, 10.304.

ORDER

IT IS HEREBY ORDERED THAT the July 20, 2012 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: August 20, 2013
Washington, DC

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

Patricia Howard Fitzgerald, Judge
Employees' Compensation Appeals Board

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