

explained that her back started to hurt when she woke up the next day and got dressed. She stopped work on May 1, 2012 and received continuation of pay.

In a May 7, 2012 report of occupational injury, illness, accident, or unsafe condition, appellant and her supervisor noted that on April 30, 2012 she strained her lower back when she lifted a few boxes at work. She stated that, when she woke up on May 1, 2012, her back started to hurt.

On May 10, 2012 OWCP advised appellant that the evidence submitted was insufficient to establish her claim and requested additional evidence.

In a May 3, 2012 emergency room report, Dr. Hillary P. Seematter, Board-certified in emergency medicine, stated that appellant complained of transient left-sided chest pain but denied radiation of pain and any modifying factors. A chest x-ray revealed no acute cardiopulmonary processes. Examination revealed no chest wall tenderness and no clubbing, cyanosis or edema in the extremities.

In a May 3, 2012 radiology report, Dr. Luke A. Wilson, a Board-certified diagnostic radiologist, stated that appellant's heart size and pulmonary vascularity were within normal limits.

In a May 8, 2012 duty status report, a nurse practitioner noted that appellant sustained an injury to the lower mid-section of her back on April 30, 2012. He authorized appellant to return to work with restrictions of no lifting greater than 10 pounds and no bending for one month.

In a May 22, 2012 attending physician's form, a nurse practitioner related appellant's complaints of back pain after lifting heavy boxes at work. She observed decreased range of motion and diagnosed low back strain. The nurse practitioner stated that appellant was totally disabled and authorized her to return to limited duty with no lifting greater than 10 pounds.

Appellant submitted May 8, 2012 hospital discharge forms. She also submitted various witness statements from coworkers indicating that they saw her pick up a box off the floor to place on a table and heard her say that it was heavy.

In a decision dated August 3, 2012, OWCP denied appellant's claim on the grounds of insufficient medical evidence. It accepted that the April 30, 2012 incident occurred as alleged but denied the claim finding that the medical evidence did not establish that she sustained a diagnosed condition as a result of the accepted condition.

LEGAL PRECEDENT

An employee seeking benefits under FECA² has the burden of proof to establish the essential elements of her claim by the weight of the reliable, probative, and substantial evidence³ including that she sustained an injury in the performance of duty and that any specific condition

² 5 U.S.C. §§ 8101-8193.

³ *J.P.*, 59 ECAB 178 (2007); *Joseph M. Whelan*, 20 ECAB 55, 58 (1968).

or disability for work for which she claims compensation is causally related to that employment injury.⁴

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.⁵ There are two components involved in establishing the fact of injury. 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 evidence, generally only in the form of probative medical evidence, to establish that the employment incident caused a personal injury.⁷ An employee may establish that the employment incident occurred as alleged but fail to show that his disability or condition relates to the employment incident.⁸

Whether an employee sustained an injury in the performance of duty requires the submission of rationalized medical opinion evidence providing a diagnosis or opinion as to causal relationship.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 by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the employee.¹⁰ The weight of the medical evidence is determined by its reliability, its probative value, its convincing quality, the care of analysis manifested, and the medical rationale expressed in support of the physician’s opinion.¹¹

ANALYSIS

Appellant alleges that on April 30, 2012 she strained her lower back when she picked up heavy boxes at work. OWCP accepted that the April 30, 2012 incident occurred as alleged but found that the medical evidence was insufficient to establish that appellant sustained any diagnosed condition causally related to the accepted incident. The Board finds that appellant failed to meet her burden of proof to provide sufficient medical evidence demonstrating that she sustained a diagnosed back condition as a result of the April 30, 2012 employment incident.

Appellant submitted a May 3, 2012 emergency room report by Dr. Seematter who related her complaints of transient left-sided chest pain. She noted that a chest x-ray revealed no acute

⁴ *G.T.*, 59 ECAB 447 (2008); *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

⁵ *S.P.*, 59 ECAB 184 (2007); *Alvin V. Gadd*, 57 ECAB 172 (2005).

⁶ *Bonnie A. Contreras*, 57 ECAB 364 (2006); *Edward C. Lawrence*, 19 ECAB 442 (1968).

⁷ *David Apgar*, 57 ECAB 137 (2005); *John J. Carlone*, 41 ECAB 354 (1989).

⁸ *T.H.*, 59 ECAB 388 (2008); *see also Roma A. Mortenson-Kindschi*, 57 ECAB 418 (2006).

⁹ *See J.Z.*, 58 ECAB 529 (2007); *Paul E. Thams*, 56 ECAB 503 (2005).

¹⁰ *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 465 (2005).

¹¹ *James Mack*, 43 ECAB 321 (1991).

cardiopulmonary processes. Dr. Seematter did not mention any complaint of back pain, nor does she mention the April 30, 2012 work incident. This evidence is not relevant to the issue of whether appellant sustained a low back injury, as alleged. Dr. Seematter did not provide any diagnosis of a back condition or medical opinion on how appellant's alleged back pain was causally related to the April 30, 2012 employment incident. The Board has found that medical evidence that does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship.¹² This report is insufficient to establish appellant's claim. Similarly, Dr. Wilson's radiology report is also insufficient to establish her claim because he did not mention any complaints of back pain, or provide any opinion on the cause of appellant's alleged back conditions.

The record contains notes from a nurse practitioner who stated that appellant sustained an injury to the lower mid-section of her back on April 30, 2012 after lifting heavy boxes at work. The Board has held, however, that a nurse is not a physician as defined under FECA.¹³ Accordingly, their medical opinions regarding diagnosis and causal relationship are of no probative medical value.¹⁴

Appellant contends on appeal that she wanted her medical bills paid and sick leave restored. As noted, however, she has the burden of proof to establish that any specific condition or disability for work for which she claims compensation, including medical benefits, is causally related to that employment injury.¹⁵ As the record does not contain sufficient medical evidence to establish that she sustained a diagnosed low back condition as a result of the April 30, 2012 employment incident. Appellant has not met her burden of proof in this case.

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 did not establish that she sustained any diagnosed condition causally related to the April 30, 2012 employment incident.

¹² *R.E.*, Docket No. 10-679 (issued November 16, 2010); *K.W.*, 59 ECAB 271 (2007).

¹³ Section 8102(2) of the FECA provides that the term "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); *Roy L. Humphrey*, 57 ECAB 238 (2005).

¹⁴ *E.H.*, Docket No. 08-1862 (issued July 8, 2009); *S.E.*, Docket No. 08-2214 (issued May 6, 2009).

¹⁵ *Supra* note 4.

ORDER

IT IS HEREBY ORDERED THAT the August 3, 2012 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: January 9, 2013
Washington, DC

Richard J. Daschbach, Chief Judge
Employees' Compensation Appeals Board

Patricia Howard Fitzgerald, Judge
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board