



## **FACTUAL HISTORY**

On September 16, 2012 appellant, a 25-year-old forestry technician, filed a claim for traumatic injury alleging that he developed an infection on the index finger of his right hand on August 19, 2012. He did not stop work.<sup>2</sup>

By letter dated June 28, 2013, OWCP advised appellant that it required additional factual and medical evidence to determine whether he was eligible for compensation benefits. It asked him to submit a comprehensive medical report from his treating physician describing his symptoms and a medical opinion explaining the cause of any diagnosed condition. Appellant did not respond.

By decision dated July 31, 2013, OWCP denied appellant's claim. It found that he failed to establish his claimed right index finger injury on August 19, 2012 at the time, place and in the manner alleged.

On August 13, 2013 appellant requested reconsideration.

In a report dated August 26, 2012, co-signed by Dr. Robin K. Rasmussen, a specialist in emergency medicine, it was noted that appellant presented to the emergency room with a complaint of abrasion to the dorsal aspect of the right second proximal phalanx five days prior. He listed a history of "noted small cut to right second finger about five days ago, has been out in woods firefighting." It was noted that there was a new onset of increased redness, swelling and pain extending to the dorsal right hand. Appellant noted a purulent discharge from the finger. He was diagnosed with an abscess of the finger.

In a statement dated September 4, 2013, appellant noted that he developed an infection on the index finger of his right finger from a thorn which penetrated his right glove while he was constructing a fire line with the use of a power saw.

By decision dated November 18, 2013, OWCP modified the July 31, 2013 decision to find a thorn penetrated appellant's right index finger, as he was constructing a fire line on August 19, 2012. It denied the claim, however, finding that he failed to provide sufficient medical evidence to establish that he sustained an infection to his right index finger causally related to the accepted August 19, 2012 work incident.

Appellant submitted an August 26, 2012 hospital report from a registered nurse, received by OWCP on January 13, 2014. He was treated that date for a small cut on the right second finger sustained five days earlier.

---

<sup>2</sup> On August 26, 2012 appellant's supervisor issued a Form CA-16 to Shasta Regional Medical Center authorizing treatment for an August 20, 2012 injury. A properly completed Form CA-16 can create a contractual agreement for payment of medical treatment even if the claim is not ultimately accepted. OWCP has not made a finding as to whether this form properly authorized treatment. *See Tracy P. Spillane*, 54 ECAB 608 (2003); 20 C.F.R. § 10.300.

By decision dated April 1, 2014, OWCP denied modification of the November 18, 2013 decision. It found that appellant failed to submit medical evidence from a physician addressing the August 19, 2012 incident and causal relationship.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA<sup>3</sup> has the burden of establishing that 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 FECA, that an injury was sustained in the performance of duty as alleged and that any disability and/or specific condition for which compensation is claimed are 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>

The Board has held that the mere fact that a condition manifests itself during a period of employment does not raise an inference that there is a causal relationship between the two.<sup>6</sup>

An award of compensation may not be based on surmise, conjecture or speculation. Neither the fact that appellant’s condition became apparent during a period of employment nor the belief that his condition was caused, precipitated or aggravated by his employment is sufficient to establish causal relationship.<sup>7</sup>

### **ANALYSIS**

OWCP accepted that on August 19, 2012 a thorn penetrated appellant’s right glove into his right index finger, as he was constructing a fire line. Appellant alleged that he sustained an infection of the right index finger as a result of this incident. The question of whether an employment incident caused a diagnosed condition can only be established by probative medical evidence. The Board finds that appellant has not submitted sufficient medical evidence to establish that the August 19, 2012 employment incident caused an abscess or infection of his right index finger.<sup>8</sup>

Appellant submitted the August 26, 2012 report from Dr. Rasmussen, who diagnosed an abscess of the right index finger. Dr. Rasmussen listed a history that appellant had noticed a cut to his right second finger about five days prior and that he had been firefighting. He did not relate the history that appellant sustained a thorn to his right index finger on August 19, 2012.

---

<sup>3</sup> 5 U.S.C. §§ 8101-8193.

<sup>4</sup> *Joe D. Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

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

<sup>6</sup> *See Joe T. Williams*, 44 ECAB 518, 521 (1993).

<sup>7</sup> *Id.*

<sup>8</sup> *See Sandra D. Pruitt*, 57 ECAB 126 (2005).

Dr. Rasmussen had an incomplete, if not inaccurate history of injury. He did not provide a complete factual and medical background. Furthermore, Dr. Rasmussen did not provide a probative, rationalized opinion regarding whether the August 19, 2012 work incident caused the diagnosed abscess. The weight of medical opinion is determined by the opportunity for and thoroughness of examination, the accuracy and completeness of a physician's knowledge of the facts of the case, the medical history provided the care of analysis manifested and the medical rationale expressed in support of stated conclusions.<sup>9</sup> Although Dr. Rasmussen provided a diagnosis of abscess to the right index finger, he did not sufficiently address how the diagnosed condition was causally related to the August 19, 2012 work incident. In his August 26, 2012 report, he stated that he had previously treated appellant for an abrasion to the dorsal aspect of the right second proximal phalanx five days prior. Appellant manifested increased redness, swelling and pain extending to the dorsal right hand and advised that there was purulent discharge from the finger. Dr. Rasmussen diagnosed abscess of the right index finger.

Dr. Rasmussen's report does not sufficiently explain how appellant's abscess to his right index finger was caused when a thorn penetrated his right glove while he was constructing a fire line on August 19, 2012. He did not adequately describe the incident accepted in this claim. Dr. Rasmussen's report is of limited probative value.<sup>10</sup>

The August 26, 2012 nurse's report does not constitute medical evidence under section 8101(2). Healthcare providers such as a nurse, acupuncturist, physician assistant or physical therapist are not considered physicians as defined under FECA. Their reports do not constitute competent medical evidence to establish a medical condition, disability or causal relationship.<sup>11</sup>

OWCP advised appellant of the evidence required to establish his claim; however, appellant failed to submit such evidence. Causal relationship must be established by rationalized medical opinion evidence from a physician. Appellant did not provide a medical opinion which described or explained the medical process by which the August 19, 2012 incident caused the diagnosed abscess or infection. Accordingly, he did not establish that he sustained an abscess/infection of his right index finger in the performance of duty.

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 failed to establish that he sustained an infection of his right index finger in the performance of duty on August 19, 2012.

---

<sup>9</sup> See *Anna C. Leanza*, 48 ECAB 115 (1996).

<sup>10</sup> *William C. Thomas*, 45 ECAB 591 (1994).

<sup>11</sup> 5 U.S.C. § 8101(2); see also *G.G.*, 58 ECAB 389 (2007); *Jerre R. Rinehart*, 45 ECAB 518 (1994); *Barbara J. Williams*, 40 ECAB 649 (1989); *Jan A. White*, 34 ECAB 515 (1983).

**ORDER**

**IT IS HEREBY ORDERED THAT** the April 1, 2014 and November 18, 2013 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: September 11, 2014  
Washington, DC

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

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

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