



that he felt a sharp pain in his right hip and buttocks extending to his foot. Appellant's supervisor checked a box indicating that appellant had been injured in the performance of duty. Appellant stopped work on September 8, 2014.

In a note dated September 8, 2014, Dr. Richard Vaz, a Board-certified osteopath and internist, stated that appellant could return to work on September 22, 2014. In a duty status report of the same date, he noted clinical findings of pain in the right buttock and stated that appellant should return to work on September 22, 2014.

In an attending physician's report dated September 8, 2014, Dr. Vaz noted that appellant had back/leg pain on the right side after lifting. He stated that appellant had sciatica.

By letter dated September 25, 2014, OWCP informed appellant that the evidence of record was insufficient to support his claim for compensation. It stated that his case had been reopened for consideration because he had not returned to work in a full-time capacity. OWCP noted that the medical reports submitted contained only diagnoses of pain and sciatica, which were descriptions of symptoms rather than valid diagnoses.

On September 8, 2014 Dr. Vaz noted that appellant presented with right leg pain. On examination, he noted muscle spasm of appellant's lumbar spine and pain with palpation over the right buttock. Dr. Vaz noted an assessment of sciatica.

In a follow-up report dated October 6, 2014, Dr. Vaz noted that the pain in appellant's right leg was improving. He noted an assessment of muscle spasm in appellant's low back and buttock and noted that appellant returned to work on September 28, 2014.

By decision dated October 30, 2014, OWCP denied appellant's claim for compensation. It found that the medical evidence of record was insufficient to establish that appellant had been diagnosed with a condition in connection with the incident of September 6, 2014. OWCP noted that the only assessments received in support of his claim were for muscle spasm, sciatica, and pain, which were descriptions of symptoms rather than valid diagnoses. It accepted that appellant was a federal civilian employee who filed a timely claim and that the evidence supported that the incident of September 6, 2014 occurred as described.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA<sup>2</sup> 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 filed within the applicable time limitation; that an injury was sustained while 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

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<sup>2</sup> 5 U.S.C. § 8101 *et seq.*

employment injury.<sup>3</sup> These are the essential elements of each and every compensation claim regardless of whether the claim is predicated on a traumatic injury or an occupational disease.<sup>4</sup>

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.<sup>5</sup> 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>6</sup> 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.<sup>7</sup>

### ANALYSIS

On September 8, 2014 appellant filed a claim alleging that he sustained right hip and buttocks sprain due to an incident at work on September 6, 2014. He noted that his injury occurred while carrying a 30-pound package from a hamper to the back of a truck. By decision dated October 30, 2014, OWCP denied appellant's claim, finding that he had not established a diagnosed condition due to the accepted incident.

The Board finds that appellant did not meet his burden of proof to establish his claim for a September 6, 2014 work-related injury because he did not submit sufficient medical evidence to establish a firm medical diagnosis due to the accepted incident. Appellant submitted reports and notes from Dr. Vaz. In a duty status report dated September 8, 2014, Dr. Vaz noted clinical findings of pain in the right buttock and stated that appellant should return to work on September 22, 2014. In an attending physician's report of the same date, he noted that appellant had back/leg pain on the right side after lifting, and stated that appellant had sciatica. In a follow-up report dated October 6, 2014, Dr. Vaz stated an assessment of muscle spasm in appellant's low back and buttock and noted that appellant returned to work on September 28, 2014.

The Board has held that pain and spasm are generally descriptions of symptoms and are not, in themselves, considered firm medical diagnoses.<sup>8</sup> Sciatica refers to pain in the lower back and leg, and as such is a description of a symptom and not a firm medical diagnosis.<sup>9</sup> As such, Dr. Vaz's description of these symptoms are insufficient to establish a firm medical diagnosis

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<sup>3</sup> *C.S.*, Docket No. 08-1585 (issued March 3, 2009); *Bonnie A. Contreras*, 57 ECAB 364, 366 (2006).

<sup>4</sup> *S.P.*, 59 ECAB 184, 188 (2007); *Joe D. Cameron*, 41 ECAB 153, 157 (1989).

<sup>5</sup> *B.F.*, Docket No. 09-60 (issued March 17, 2009); *Bonnie A. Contreras*, *supra* note 3.

<sup>6</sup> *D.B.*, 58 ECAB 464, 466 (2007); *David Apgar*, 57 ECAB 137, 140 (2005).

<sup>7</sup> *C.B.*, Docket No. 08-1583 (issued December 9, 2008); *D.G.*, 59 ECAB 734, 737 (2008); *Bonnie A. Contreras*, *supra* note 3.

<sup>8</sup> *See B.P.*, Docket No. 12-1345 (issued November 13, 2012) (regarding pain); *C.F.*, Docket No. 08-1102 (issued October 10, 2008) (regarding pain); *J.S.*, Docket No. 07-881 (issued August 1, 2007) (regarding spasm).

<sup>9</sup> *See C.B.*, Docket No. 13-694 (issued May 29, 2013).

related to the accepted incident at work. Therefore, the Board finds that the reports of Dr. Vaz are insufficient to establish appellant's claim for compensation. The Board also notes that the record does not contain a medical report which explains, with medical rationale, how the accepted incident of September 6, 2014 would have physiologically caused a diagnosed condition. Appellant has therefore failed to establish that he had diagnosed conditions of the right hip or buttocks resulting from the September 6, 2014 employment incident.

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 meet his burden of proof to establish that he sustained an injury in the performance of duty on September 6, 2014.

**ORDER**

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

Issued: April 14, 2015  
Washington, DC

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

Patricia H. Fitzgerald, Deputy Chief Judge  
Employees' Compensation Appeals Board

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