

FACTUAL HISTORY

On November 4, 2014 appellant, a 38-year-old city carrier, filed a traumatic injury claim alleging that she sustained an injury in the performance of duty on October 29, 2014 when a car rear-ended her mail truck. An emergency room discharge record indicated that appellant had a neck injury. It offered information on cervical sprain. Dr. Joseph J. Koshes, Jr., a chiropractor, saw her on October 30, 2014 and recommended that she be excused from all work duties to avoid aggravating her condition.

In a decision dated December 15, 2014, OWCP denied appellant's injury claim. It accepted that the October 29, 2014 motor vehicle accident occurred as alleged and that a medical condition was diagnosed. However, OWCP denied appellant's claim as the evidence was not sufficient to establish that the medical condition was causally related to the accepted work incident. In particular, the medical documentation did not contain a history of the work injury, and without this, causal relationship could not be established.

Appellant explains on appeal that her supervisor told her that all the information was sent in to OWCP, but now she finds that it was not. She is trying to get it fixed. Appellant submits a number of medical documents on appeal.

LEGAL PRECEDENT

FECA provides compensation for the disability of an employee resulting from personal injury sustained while in the performance of duty.³ An employee seeking benefits under FECA has the burden of proof to establish the essential elements of his or her claim. When an employee claims that he or she sustained an injury in the performance of duty, he or she must submit sufficient evidence to establish that he or she experienced a specific event, incident, or exposure occurring at the time, place, and in the manner alleged. He or she must also establish that such event, incident, or exposure caused an injury.⁴

Causal relationship is a medical issue,⁵ and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence. The opinion of the physician must be based on a complete factual and medical background of the claimant,⁶ must be one of reasonable medical certainty,⁷ and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the established incident or factor of employment.⁸

³ *Id.* at § 8102(a).

⁴ *John J. Carlone*, 41 ECAB 354 (1989).

⁵ *Mary J. Briggs*, 37 ECAB 578 (1986).

⁶ *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

⁷ *See Morris Scanlon*, 11 ECAB 384, 385 (1960).

⁸ *See William E. Enright*, 31 ECAB 426, 430 (1980).

ANALYSIS

OWCP accepted that the October 29, 2014 motor vehicle accident occurred as alleged. Appellant has therefore met her burden to establish that she experienced a specific event, incident, or exposure occurring at the time, place, and in the manner alleged. The question that remains is whether the October 29, 2014 motor vehicle accident caused an injury. Causal relationship must be established by a physician's well-reasoned opinion.⁹

When OWCP issued its December 15, 2014 decision, there were two medical records in the case file. One was an emergency room discharge record indicating that appellant had a neck injury. It provided information on cervical strain. The other record was a disability note from Dr. Koshes, a chiropractor. Neither report acknowledged what happened on October 29, 2014, and neither offered a physician's well-reasoned opinion on how the incident caused the diagnosed condition.¹⁰ Furthermore, Dr. Koshes' report lacks probative value as he did not diagnose a subluxation from x-ray. Chiropractors are not considered "physicians" under FECA. Therefore, Dr. Koshes' opinion on causal relationship does not constitute competent medical evidence.

Accordingly, the Board finds that appellant has not met her burden to establish the critical element of causal relationship. The Board will affirm OWCP's December 15, 2014 decision denying her injury claim.

Appellant may submit new evidence or argument, however, 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 met her burden of proof to establish that she sustained an injury in the performance of duty on October 29, 2014.

⁹ The Board has held that a physician's assistant is not a "physician" within the meaning of FECA and is therefore not competent to give a medical opinion. *Guadalupe Julia Sandoval*, 30 ECAB 1491 (1979); see 5 U.S.C. § 8101(2) (defining "physician").

¹⁰ See generally *Theresa K. McKenna*, 30 ECAB 702 (1979).

ORDER

IT IS HEREBY ORDERED THAT the December 15, 2014 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: June 12, 2015
Washington, DC

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

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

James A. Haynes, Alternate Judge
Employees' Compensation Appeals Board