

**United States Department of Labor
Employees' Compensation Appeals Board**

J.H., Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Oakland, CA, Employer**

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**Docket No. 15-835
Issued: June 17, 2015**

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

CHRISTOPHER J. GODFREY, Chief Judge
COLLEEN DUFFY KIKO, Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On March 3, 2015 appellant filed a timely appeal of a September 5, 2014 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act¹ (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction to consider the merits of the case.

ISSUE

The issue is whether appellant has met his burden of proof to establish an occupational disease due to factors of his federal employment.

FACTUAL HISTORY

On June 22, 2014 appellant, then a 28-year-old letter carrier, filed an occupational disease claim alleging that he developed back pains while on his route. He stated that he first became aware of his condition on January 16, 2014 and first realized that his condition was related to his

¹ 5 U.S.C. § 8101 *et seq.*

employment on that date. Appellant stated that his back pain came and went and that his supervisors were aware of his condition beginning in January 2014. He hoped his condition would improve, but he could not sleep due to his back pain.

In a letter dated July 18, 2014, OWCP requested that appellant provide additional factual and medical evidence in support of his claim. Appellant submitted notes from a nurse practitioner dated July 3 and August 13, 2014.

On June 27, 2014 Dr. Andrea Williams, a Board-certified family practitioner, examined appellant due to right mid-back pain and bilateral lower back pain since January 2014. Appellant stated that he had been lifting heavy bags of mail weighing up to 50 pounds. He noticed that the back pain started with lifting. Dr. Williams diagnosed scapula and lumbar muscle strain with some spasm. She stated that appellant's claim was a workers' compensation injury.

On August 8, 2014 appellant responded to OWCP's request for factual information and stated that his route consisted of a lot of parcels and mailboxes. He stated that his route required him to bend over which resulted in the feeling of a pop in his back.

By decision dated September 5, 2014, OWCP denied appellant's claim. It found that he had not established a causal relationship between his diagnosed condition and his implicated factors of employment. OWCP stated that appellant had not submitted the necessary rationalized medical opinion evidence to establish that he sustained an injury as a result of his employment duties.

LEGAL PRECEDENT

OWCP's regulations define an occupational disease as "a condition produced by the work environment over a period longer than a single workday or shift."² To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the employment factors identified by the claimant were the proximate cause of the condition for which compensation is claimed or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant. The evidence required to establish causal relationship is rationalized medical opinion evidence, based upon a complete factual and medical background, showing a causal relationship between the claimed condition and identified factors. The belief of a claimant that a condition was caused or aggravated by the employment is not sufficient to establish causal relation.³

² 20 C.F.R. § 10.5(q).

³ *Lourdes Harris*, 45 ECAB 545, 547 (1994).

ANALYSIS

Appellant submitted a report from Dr. Williams diagnosing scapula and lumbar muscle strain. He also provided OWCP with a history of bending while delivering his route which caused his back to pop. Appellant has provided a diagnosed medical condition and provided a factual statement of the implicated employment duties. However, the Board finds that appellant has not submitted the necessary medical opinion to establish a causal relationship between his diagnosed condition and his implicated employment duties.

On June 27, 2014 Dr. Williams provided a history of lifting heavy bags of mail rather than repetitive bending in appellant's job duties. She diagnosed conditions of scapula and lumbar strain. Dr. Williams offered an opinion that appellant's condition was employment related but did not provide any medical reasoning to explain this conclusion. This opinion evidence and supporting rationale should show how appellant's bending or lifting in the performance of duty would result in the diagnosed conditions. For these reasons, Dr. Williams' report does not meet appellant's burden of proof and does not establish his occupational disease claim.

Appellant also submitted reports dated July 3 and August 13, 2014 from nurse practitioners. Certain healthcare providers such as physician assistants, nurse practitioners, physical therapists, and social workers are not considered physicians as defined under FECA.⁴ As such, their opinions will not suffice for purposes of establishing entitlement to FECA benefits.⁵ These reports were not signed by a physician, and are not considered medical evidence to establish appellant's occupational disease claim.

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 met his burden of proof to establish that he developed an occupational disease due to factors of his federal employment.

⁴ 5 U.S.C. § 8101(2); 20 C.F.R. § 10.5(t).

⁵ *E.M.*, Docket No. 15-469 (issued May 4, 2015); *K.W.*, 59 ECAB 271, 279 (2007).

ORDER

IT IS HEREBY ORDERED THAT the September 5, 2014 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: June 17, 2015
Washington, DC

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

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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