United States Department of Labor
Employees' Compensation Appeals Board

G.W., Appellant	)	
and	)	**Docket No. 15-1492**
	)	**Issued: October 14, 2015**
U.S. POSTAL SERVICE, POST OFFICE, Bloomington, IN, Employer	)	

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

Case Submitted on the Record

DECISION AND ORDER

Before:
CHRISTOPHER J. GODFREY, Chief Judge
PATRICIA H. FITZGERALD, Deputy Chief Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On June 30, 2015 appellant filed a timely appeal of a June 4, 2015 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act[1] (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction to consider the merits of this case.

ISSUE

The issue is whether appellant has met her burden of proof to establish that she sustained an injury in the performance of duty on October 2, 2014 as a result of the accepted employment incident.

FACTUAL HISTORY

Appellant, a 57-year-old rural mail carrier, filed a traumatic injury claim (Form CA-1) for benefits on October 4, 2014, alleging that she experienced pain in her back, neck, and left

[1] 5 U.S.C. § 8101 *et seq.*

shoulder when the vehicle she was driving was struck from behind by another vehicle on October 2, 2014. The record indicates that appellant returned to light-duty work, although the exact date she returned to work is unclear from the record.

Appellant submitted several reports from nurse practitioners, dated October 2, 7, 10, and 14, 2014 which noted that she had complaints of pain and weakness in her back, neck, chest, left shoulder, and left wrist. The reports were not cosigned by a physician.

By letter dated October 10, 2014, OWCP informed appellant that it required additional factual and medical evidence to determine whether she was eligible for compensation benefits. It asked her to submit a comprehensive medical report from her treating physician describing her symptoms and the medical reasons for her condition, and an opinion as to whether her claimed condition was causally related to her federal employment. OWCP requested that appellant submit the additional evidence within 30 days.

Appellant submitted an October 23, 2014 progress report from a nurse practitioner which again documented treatment for her neck sprain and strain, contusion of the chest wall, and contusion of the forearm.

By decision dated November 12, 2014, OWCP denied appellant's claim, finding that the incident occurred as alleged, but that she failed to submit sufficient medical evidence that she sustained back, neck, chest, left shoulder, arm and, wrist injuries in the performance of duty as a result of the accepted incident.

On December 2, 2014 appellant requested a review of the written record by an OWCP hearing representative.

Appellant continued to resubmit the progress notes from her nurse practitioners that were previously of record. On December 30, 2014 OWCP received an October 23, 2014 work status summary, not previously of record, which noted diagnoses of neck sprain and strain, contusion of chest wall, and forearm, and related that appellant was discharged from care on October 23, 2014. This work status summary indicated that it was signed by a physician, but the signature is illegible.

By decision dated June 4, 2015, an OWCP hearing representative affirmed the November 12, 2014 decision.

LEGAL PRECEDENT

An employee seeking benefits under FECA[2] 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

[2] 5 U.S.C. §§ 8101-8193.

related to the employment injury.[3] 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.[4]

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. 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.[5] 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.[6] The medical evidence required to establish causal relationship is usually rationalized medical evidence. Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the claimant, 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 claimant.[7]

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.[8]

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 her condition was caused, precipitated, or aggravated by her employment is sufficient to establish causal relationship.[9]

ANALYSIS

OWCP accepted that appellant's rural mail vehicle was struck from behind by another vehicle on October 2, 2014. The question of whether the employment incident caused a personal injury can only be established by probative medical evidence.[10] Appellant has not submitted rationalized, probative medical evidence to establish that the October 2, 2014 employment incident caused the claimed injuries.

[3] *Joe D. Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

[4] *Victor J. Woodhams*, 41 ECAB 345 (1989).

[5] *John J. Carlone*, 41 ECAB 354 (1989).

[6] *Id.* For a definition of the term "injury," see 20 C.F.R. § 10.5(a)(14).

[7] *Id.*

[8] *See Joe T. Williams*, 44 ECAB 518, 521 (1993).

[9] *Id.*

[10] *Supra* note 5.

In support of her claim appellant submitted numerous reports from nurse practitioners. These reports, however, do not constitute medical evidence under section 8101(2). Because healthcare providers such as nurses, acupuncturists, physician assistants and physical therapists are not considered "physicians" under FECA, their reports and opinions do not constitute competent, probative medical evidence to establish a medical condition, disability, or causal relationship.[11]

OWCP advised appellant of the evidence required to establish her claim. However, appellant failed to submit such evidence. Appellant did not provide a medical opinion which describes or explains the medical process through which the October 2, 2014 employment incident would have caused the claimed injury.

The only report appellant submitted which was purportedly signed by a physician was the October 23, 2013 work status summary. The physician's signature however is illegible on this report. It may have been prepared by an attending physician, but it is impossible to verify from the report itself.[12] The Board has held that reports bearing illegible signatures cannot be considered probative medical evidence because they lack proper identification.[13] Therefore, the report is insufficient to establish appellant's claim.

Appellant has not provided any medical evidence from a physician who explains how the motor vehicle accident on October 2, 2014 caused or contributed to a diagnosed medical condition. Accordingly, she did not establish that she sustained back, neck, chest, left shoulder, arm, or wrist injuries 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 meet her burden of proof to establish that she sustained an injury in the performance of duty on October 2, 2014.

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

[12] *See L.M.*, Docket No. 15-1253 (issued August 27, 2015).

[13] *Thomas L. Agee*, 56 ECAB 465 (2005) (holding that a medical report may not be considered probative medical evidence unless it can be established that the person completing the report is a physician as defined in 5 U.S.C. § 8101(2).

ORDER

IT IS HEREBY ORDERED THAT the June 4, 2015 decision of the Office of Workers' Compensation Programs be affirmed.

Issued: October 14, 2015
Washington, DC

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

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

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board