



## **FACTUAL HISTORY**

On January 22, 2015 appellant, then a 26-year-old grants management specialist, filed a traumatic injury claim alleging that on January 6, 2015 she sustained whiplash and lower back and neck injuries due to an automobile accident while traveling to the airport on temporary duty.

In support of her claim, appellant submitted a January 6, 2015 accident exchange form from the Washington Area Metropolitan Airports Authority Police Department containing information on appellant and the other driver involved.

A January 7, 2015 verification of treatment form by Dr. Charles M. Hensgen, a Board-certified family medicine practitioner with Kaiser Permanente, reports that he treated appellant that day for low back and neck pain. The cause of injury was listed as a motor vehicle accident involving appellant. Dr. Hensgen released her to return to work on January 12, 2015.

OWCP also received verification of treatment from progress notes dated January 7, 12, 15, and 20, 2015 by Dr. Stephanie D. Brown, a Board-certified family medicine practitioner, also with Kaiser Permanente, for treatment of low back and neck pain. The history of injury in the January 7, 2015 progress notes included "Motor vehicle accident with neck pain." Dates of release to work noted on the forms included January 14, 20, and 23, 2015.

On February 4, 2015 OWCP received a January 15, 2015 report by Dr. Brown diagnosing low back pain, and neck pain and noting the cause of the diagnosed conditions as a motor vehicle accident. In a February 5, 2015 verification of treatment form, Dr. Brown reported that appellant received medical treatment and indicated that appellant could return to work that day.

By letter dated February 6, 2015, OWCP informed appellant that the evidence of record was insufficient to establish her claim. Appellant was advised as to the medical and factual evidence required and was given 30 days to provide the requested information.

On February 10, 2015 OWCP received a January 7, 2015 report by Dr. Hensgen diagnosing low back and neck pain due to a motor vehicle accident. Dr. Hensgen diagnosed a whiplash injury as the result of her automobile accident. By way of history, he noted that appellant's car skidded on a patch of ice while going into the garage at Reagan National Airport and struck another car. Dr. Hensgen noted that appellant had paresthesia in her feet and hands and pain everywhere. A physical examination revealed decreased neck and right shoulder range of motion and right shoulder spasm and tenderness.

On March 3 and 5, 2015 OWCP received a February 5, 2015 report by Dr. Brown who diagnosed a bulging disc based on a review of a January 27, 2015 magnetic resonance imaging (MRI) scan. Under impression, Dr. Brown reported a L4-5 disc bulge and L3-4, L4-5, and L5-S1 mild facet arthrosis.

On March 3, 2015 OWCP received reports dated February 10 and 12, 2015 by Dr. Zhen Xu, an examining Board-certified physiatrist to whom appellant was referred by Dr. Brown. In both reports, Dr. Xu reported that appellant was seen for lower back complaints, intermittent constant sharp aching, muscle tightness, and muscle spasm since January 7, 2015. He identified low back pain and lumbar disc herniation as appellant's active problem list. Dr. Xu also

reviewed the January 27, 2015 lumbar MRI scan. In the February 10, 2015 report, he diagnosed mild facet arthropathy and disc herniation under assessment. Dr. Xu recommended referral for pain management.

On March 4, 2015 OWCP received a January 7, 2015 MRI scan by Dr. Richard Haar, a Board-certified radiologist, revealing decreased lordosis, trace thoracolumbar spine curvature, convex right, and an otherwise unremarkable study without confirmed compression fracture.

By decision dated March 9, 2015, OWCP denied appellant's claim on the basis that she failed to establish fact of injury. It found that there was no medical evidence containing a diagnosed medical condition causally related to the January 6, 2015 employment incident.

### **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 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 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>

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence.<sup>8</sup> Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on whether there is a causal relationship between the employee's diagnosed condition and the

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

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

<sup>4</sup> *S.P.*, 59 ECAB 184 (2007); *Joe D. Cameron*, 41 ECAB 153 (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 (2007); *David Apgar*, 57 ECAB 137 (2005).

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

<sup>8</sup> *Y.J.*, Docket No. 08-1167 (issued October 7, 2008); *A.D.*, 58 ECAB 149 (2006); *D'Wayne Avila*, 57 ECAB 642 (2006).

compensable employment factors.<sup>9</sup> The opinion of the physician must be based on a complete factual and medical background of the employee, 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 employee.<sup>10</sup>

### ANALYSIS

OWCP accepted that appellant was involved in an automobile accident on January 6, 2015 in the performance of duty. It denied her claim on the basis that she failed to establish that she sustained an injury as a result of the accepted incident. The issue before the Board is whether she submitted sufficient medical evidence to establish that the employment incident caused an injury as defined under FECA. The Board finds that appellant failed to establish a diagnosed medical condition causally related to the accepted January 6, 2015 incident.

Appellant provided verification of treatment forms and reports from Drs. Brown, Hensgen, and Xu. In a January 7, 2015 report, Dr. Hensgen diagnosed low back and neck pain which he attributed to the January 6, 2015 automobile accident. Similarly, Dr. Brown, in January 7 and 15, 2015 reports, diagnosed low back and neck pain which she attributed to the automobile accident on January 6, 2015. These reports lack a diagnosis and medical rationale explaining the employment relationship. Moreover, the Board has held that pain is generally considered a symptom and not a firm medical diagnosis.<sup>11</sup> Thus, these reports are insufficient to support appellant's claim.

Appellant also submitted reports from Dr. Xu dated February 10 and 12, 2015 diagnosing low back pain, mild facet arthropathy, and lumbar disc herniation. Dr. Xu offered no opinion as to the cause of the diagnosed conditions. The Board has held that medical evidence that does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship.<sup>12</sup> Thus, Dr. Xu's reports are insufficient to establish appellant's claim. As well, Dr. Haar, a radiologist, reported his diagnostic findings without mention of causation.

The MRI scans alone are insufficient to establish the claim as the diagnostic studies did not address causal relationship.

To establish a firm medical diagnosis and causal relationship, appellant must submit a physician's report that addresses the January 6, 2015 employment incident and how it caused or aggravated the diagnosed conditions.<sup>13</sup> OWCP advised appellant that it was her responsibility to

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<sup>9</sup> *J.J.*, Docket No. 09-27 (issued February 10, 2009); *Michael S. Mina*, 57 ECAB 379 (2006).

<sup>10</sup> *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

<sup>11</sup> *P.S.*, Docket No. 12-1601 (issued January 2, 2013); *J.W.*, Docket No. 11-1475 (issued December 7, 2011); *Robert Broome*, 55 ECAB 339 (2004).

<sup>12</sup> *A.D.*, 58 ECAB 149 (2006); *Conard Hightower*, 54 ECAB 796 (2003).

<sup>13</sup> *Michael S. Mina*, 57 ECAB 379 (2006); *Michael E. Smith*, 50 ECAB 313 (1999).

provide a comprehensive medical report which described her symptoms, test results, diagnosis, treatment, and the physician's opinion, with medical reasons, on the cause of the diagnosed condition. Appellant failed to submit appropriate medical documentation in response to OWCP's request. As there is no probative, rationalized medical evidence addressing how her claimed medical condition was caused or aggravated by the January 6, 2015 employment incident, she has not met her burden of proof.

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 failed to establish an injury causally related to the accepted January 6, 2015 employment incident.

**ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated March 9, 2015 is affirmed.

Issued: September 3, 2015  
Washington, DC

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

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

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