



## **FACTUAL HISTORY**

On November 16, 2015 appellant, then a 48-year-old rural carrier, filed a traumatic injury claim (Form CA-1) alleging that she injured her left hand that day as a result of a motor vehicle accident in the performance of duty. She stopped work on November 17, 2015 and has not returned to work.

In a November 16, 2015 narrative statement, appellant related that, a jeep slammed into her truck and pushed it into a tree on that date. She hit her knees and left hand on the metal part of a track where trays were placed.

Appellant submitted a copy of a November 16, 2015 Carroll County sheriff's office motor vehicle collision information exchange form which provided vehicle, owner, and driver information related to herself and the driver involved in the motor vehicle accident.

In a November 17, 2015 disability form, Dr. Jonathan H. Dunn, an attending Board-certified orthopedic surgeon, advised that appellant was disabled and, therefore, unable to perform her work duties through November 24, 2015.

By letter dated January 25, 2016, OWCP notified appellant of the deficiencies of her claim and afforded her 30 days to submit additional medical and factual evidence.

In a December 8, 2015 follow-up medical report, Dr. Dunn indicated that appellant was being seen for orthopedic evaluation of injuries sustained due to a work accident. He noted her pain symptoms, reported findings on physical and x-ray examination, and reviewed prior diagnostic test results. Dr. Dunn assessed continued symptoms from injuries to appellant's cervicothoracic spine, thoracolumbar spine, left wrist, and left foot. He concluded that she would remain off work.

A State of Maryland motor vehicle crash report completed by the Carroll County sheriff's office stated that, on November 16, 2015 appellant's vehicle was stopped and she was delivering mail when the back of her vehicle was struck by another vehicle that was trying to pass on the left. Her vehicle went off the road and struck two mailboxes.

In a January 28, 2016 statement, appellant asserted that the police report was incorrect as it did not indicate an injury. She sustained left hand, left leg, lower back, and neck injuries when she was pushed into a tree during the accident. Appellant immediately called her supervisor who came to the accident scene. She described her pain and medical treatment.

In disability forms dated December 8, 2015 and January 5, 2016, Irine Breslaw, a physician assistant, advised that appellant was disabled, and therefore unable to perform her work duties from December 8, 2015 to January 26, 2016.

A January 5, 2016 duty status report (Form CA-17) and an undated Form CA-17 report with an unknown signature provided a history of injury that on November 16, 2015 appellant's hand struck against a metal tray. The reports indicated that she was placed off work. The undated Form CA-17 report provided clinical findings of widespread degenerative changes in the

cervical and lumbar spine and indicated that appellant sustained an injury due to the November 16, 2015 incident.

In a February 2, 2016 report, Dr. Dunn noted that appellant was involved in a work-related injury on November 16, 2015. He noted her medical treatment. Dr. Dunn also noted that appellant was placed off work on November 17, 2015 and she continued to be on out-of-work status as of January 26, 2016.

In disability forms dated January 26 and February 2, 2016, Daniel Schechter, a physician assistant, reported that appellant was disabled and, therefore, unable to perform her work duties from January 26 to March 8, 2016.

By decision dated March 1, 2016, OWCP denied appellant's traumatic injury claim as the medical evidence did not establish that the accepted work incident caused a diagnosed medical condition.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA has the burden of proof to establish the essential elements of his or her claim by the weight of the reliable, probative, and substantial evidence<sup>3</sup> including that he or she sustained an injury in the performance of duty and that any specific condition or disability for work for which he or she claims compensation is causally related to that employment injury.<sup>4</sup>

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it first must be determined whether fact of injury has been established.<sup>5</sup> There are two components involved in establishing the fact of injury. 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>

The second component is whether the employment incident caused a personal injury and generally can be established only by medical evidence.<sup>7</sup> The evidence required to establish causal relationship is rationalized medical opinion evidence, based upon complete factual and medical background, showing a causal relationship between the claimed condition and the

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<sup>3</sup> *J.P.*, 59 ECAB 178 (2007); *Joseph M. Whelan*, 20 ECAB 55, 58 (1968).

<sup>4</sup> *G.T.*, 59 ECAB 447 (2008); *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

<sup>5</sup> *S.P.*, 59 ECAB 184 (2007); *Alvin V. Gadd*, 57 ECAB 172 (2005).

<sup>6</sup> *Bonnie A. Contreras*, 57 ECAB 364 (2006); *Edward C. Lawrence*, 19 ECAB 442 (1968).

<sup>7</sup> *John J. Carlone*, 41 ECAB 354 (1989); see *supra* note 1 at § 8101(5) (injury defined); 20 C.F.R. §§ 10.5(ee), 10.5(q) (traumatic injury and occupational disease defined, respectively).

identified factors.<sup>8</sup> The belief of the claimant that a condition was caused or aggravated by the employment is insufficient to establish a causal relationship.<sup>9</sup>

### ANALYSIS

The Board finds that appellant has not met her burden of proof to establish a traumatic injury caused by the November 16, 2015 employment incident. Appellant failed to submit sufficient medical evidence to establish that she had left hand, left leg, back, and neck injuries causally related to the accepted employment incident.

Appellant submitted several reports from Dr. Dunn. In a December 8, 2015 follow-up report, Dr. Dunn indicated that appellant was being seen for an orthopedic evaluation of injuries sustained due to a work accident. He noted her pain symptoms, reported findings on physical and x-ray examination, and reviewed prior diagnostic test results. Dr. Dunn assessed continued symptoms from injuries to appellant's cervicothoracic spine, thoracolumbar spine, left wrist, and left foot. He concluded that she would remain off work. Dr. Dunn's report does not establish causal relationship because he did not provide a firm medical diagnosis of a particular medical condition,<sup>10</sup> a clear history of injury<sup>11</sup> or a specific opinion as to whether the accepted November 16, 2015 employment incident caused or aggravated appellant's condition and resultant disability.<sup>12</sup>

Similarly, Dr. Dunn's November 17, 2015 disability form and February 2, 2016 report are of limited probative value. While he noted that appellant was involved in a work-related injury on November 16, 2015, he did not provide findings on examination, a firm medical diagnosis,<sup>13</sup> a clear history of injury,<sup>14</sup> or explain how her condition and disability commencing on November 24, 2015 were caused or aggravated by the accepted employment incident.<sup>15</sup> As such, Dr. Dunn's reports are insufficient to establish appellant's claim.

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<sup>8</sup> *Lourdes Harris*, 45 ECAB 545 (1994); see *Walter D. Morehead*, 31 ECAB 188 (1979).

<sup>9</sup> *Kathryn Haggerty*, 45 ECAB 383, 389 (1994).

<sup>10</sup> See *Deborah L. Beatty*, 54 ECAB 340 (2003) (where the Board found that in the absence of a medical report providing a diagnosed condition and a reasoned opinion on causal relationship with the employment incident, appellant did not meet her burden of proof).

<sup>11</sup> *Frank Luis Rembisz*, 52 ECAB 147 (2000) (medical opinions based on an incomplete history have little probative value).

<sup>12</sup> *A.D.*, 58 ECAB 149 (2006) (medical evidence which 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>13</sup> See *supra* note 10.

<sup>14</sup> See *supra* note 11.

<sup>15</sup> See *George Randolph Taylor*, 6 ECAB 986, 988 (1954) (a medical opinion not fortified by rationale is of limited probative value).

The disability forms from Ms. Breslaw and Mr. Schechter, physician assistants, regarding appellant's disability for work have no probative value in establishing her claim. Physician assistants are not considered physicians as defined under FECA.<sup>16</sup>

The Form CA-17 reports with an unknown signature are insufficient to establish appellant's claim. A report that is unsigned or bears an illegible signature lacks proper identification that a physician authored it and cannot be considered probative medical evidence.<sup>17</sup>

The Board finds that appellant has failed to submit any rationalized probative medical evidence to establish that she sustained left hand, left leg, back, and neck injuries causally related to the November 16, 2015 employment incident. Appellant did not meet 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 has failed to meet her burden of proof to establish that her left hand, left leg, back, and neck injuries were causally related to a November 16, 2015 employment incident.

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<sup>16</sup> 5 U.S.C. § 8101(2) (this subsection defines a physician as surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, and osteopathic practitioners within the scope of their practice as defined by State law); *J.B.*, Docket No. 13-0976 (issued September 5, 2013); *Roy L. Humphrey*, 57 ECAB 238, 242 (2005).

<sup>17</sup> *Thomas L. Agee*, 56 ECAB 465 (2005); *Richard F. Williams*, 55 ECAB 343 (2004).

**ORDER**

**IT IS HEREBY ORDERED THAT** the March 1, 2016 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: August 8, 2016  
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