

the claim was controverted as the claim was not filed within 30 days of the alleged injury. Appellant did not stop work.

In support of his claim, appellant submitted a February 5, 2016 duty status form (Form CA-17) which diagnosed a left index finger laceration and provided work restrictions.² The form noted that appellant cut his hand on a mailbox on that date.

In a letter dated April 5, 2016, OWCP informed appellant that the evidence of record was insufficient to establish his claim. It advised him as to the medical and factual evidence required and afforded him 30 days to provide this information.

In response to OWCP's request, appellant submitted hospital reports from his February 5, 2016 emergency room visit.

In February 5, 2016 emergency department notes, Collin Arnett, a certified physician assistant, and Ann M. Kibler and Jean T. Dahm, registered nurses, noted a diagnosis of right index finger laceration. A history of the injury and physical examination findings were provided. Appellant was discharged that day.

By decision dated May 6, 2016 OWCP denied appellant's claim. It found that the February 5, 2016 incident occurred as alleged, but the record contained no medical evidence containing a medical diagnosis causally related to the accepted work incident.

LEGAL PRECEDENT

An employee seeking benefits under FECA³ has the burden of proof to establish 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.⁴ 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.⁵

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.⁶ First, the employee must submit sufficient evidence to establish that he actually experienced the employment incident at the time, place, and in the manner alleged.⁷ Second, the employee must

² The signature on the form is illegible with a notation of emergency room medicine as a specialty.

³ 5 U.S.C. § 8101 *et seq.*

⁴ *C.S.*, Docket No. 08-1585 (issued March 3, 2009); *Bonnie A. Contreras*, 57 ECAB 364 (2006).

⁵ *S.P.*, 59 ECAB 184 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

⁶ *B.F.*, Docket No. 09-60 (issued March 17, 2009); *Bonnie A. Contreras*, *supra* note 4.

⁷ *D.B.*, 58 ECAB 464 (2007); *David Apgar*, 57 ECAB 137 (2005).

submit sufficient evidence, generally only in the form of medical evidence, to establish that the employment incident caused a personal injury.⁸

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence.⁹ 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 compensable employment factors.¹⁰ 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.¹¹

Medical opinions, in general, can only be given by a qualified physician.¹² Section 8101(2) of FECA provides that "physician" includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, and osteopathic practitioners within the scope of their practice as defined by State law.¹³ Registered nurses, licensed practical nurses, and physician assistants are not considered "physicians" as defined under FECA.¹⁴ Their opinions, therefore, are of no probative value.

ANALYSIS

It is undisputed that the February 5, 2016 work incident occurred as alleged. The Board, however, finds that medical evidence submitted is insufficient to establish that the work incident resulted in an employment injury.

Medical evidence submitted to support a claim for compensation should reflect a correct history, and should offer a medically-sound explanation of how the work event caused a diagnosed condition.¹⁵ The record contains no medical evidence from a qualified physician.

Physician assistants and registered nurses are not considered physicians under FECA.¹⁶ The record includes a February 5, 2016 emergency department report from a certified physician

⁸ *C.B.*, Docket No. 08-1583 (issued December 9, 2008); *D.G.*, 59 ECAB 734 (2008); *Bonnie A. Contreras*, *supra* note 4.

⁹ *Y.J.*, Docket No. 08-1167 (issued October 7, 2008); *A.D.*, 58 ECAB 149 (2006); *D'Wayne Avila*, 57 ECAB 642 (2006).

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

¹¹ *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

¹² *E.K.*, Docket No. 09-1827 (issued April 20, 2010); *Allen C. Hundley*, 53 ECAB 551 (2002).

¹³ 5 U.S.C. § 8101(2); *see S.E.*, Docket No. 08-2214 (issued May 6, 2009); *Roy L. Humphrey*, 57 ECAB 238 (2005).

¹⁴ *Roy L. Humphrey*, *id.*

¹⁵ *D.D.*, Docket No. 13-1517 (issued April 14, 2014).

¹⁶ *E.K.*, *supra* note 12; *J.M.*, 58 ECAB 303 (2007); *Roy L. Humphrey*, *supra* note 13.

assistant, Mr. Arnett, and registered nurses, Ms. Kibler and Ms. Dahm. As they are not considered physicians as defined under FECA,¹⁷ these reports are of no probative value on the issue of whether appellant sustained an injury causally related to the February 5, 2016 work incident.

The record also contains a February 5, 2016 duty status form with an illegible signature. A medical report may not be considered as probative medical evidence if there is no indication that the person completing the report qualifies as a physician as defined in section 8101(2) of FECA,¹⁸ and reports lacking proper identification do not constitute probative medical evidence.¹⁹

The Board finds that the evidence appellant submitted is of no probative medical value and, thus, insufficient to establish his claim.²⁰ Appellant submitted insufficient medical evidence to establish the injury caused by the February 5, 2016 employment incident.²¹

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 an injury due to the accepted February 5, 2016 employment.

¹⁷ *Supra* note 13.

¹⁸ 5 U.S.C. § 8101(2).

¹⁹ *C.B.*, Docket No. 09-2027 (issued May 12, 2010); *Richard F. Williams*, 55 ECAB 343 (2004).

²⁰ *L.H.*, Docket No. 16-0868 (issued September 12, 2016).

²¹ OWCP procedures provide that if all of the following criteria are satisfied, a claim may be accepted without a medical report: (1) The condition reported is a minor one which can be identified on visual inspection by a lay person (*e.g.*, burn, laceration, insect sting or animal bite); (2) The injury was witnessed or reported promptly, and no dispute exists as to the fact of injury; and (3) No time was lost from work due to disability. Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3(c) (January 2013). As previously noted, however, the alleged injury was controverted as not promptly reported, and it was not witnessed.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated May 6, 2016 is affirmed.

Issued: November 23, 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