



## **FACTUAL HISTORY**

On September 16, 2016 appellant, then a 62-year-old maintenance mechanic, filed a traumatic injury claim (Form CA-1) alleging that on the September 15, 2016, she sustained an injury to her lower back as a result of moving heavy equipment and unloading equipment from a truck. A supervisor noted that the employing establishment was challenging the claim on the issues of causal relationship and performance of duty. The supervisor, however, also checked a box marked “yes” indicating that appellant had been injured in the performance of duty. Appellant did not stop work.

Appellant submitted a September 16, 2016 work status report, which recommended work restrictions of no carrying objects weighing more than 10 pounds for more than eight hours per day. The document was signed, but the signature was illegible. A diagnosis was listed, but it was also not fully legible as it had been partly obscured.

By letter dated September 28, 2016, OWCP advised appellant that the evidence of record was insufficient to support her claim. It noted that it had not received a medical report from a physician to establish that she had been diagnosed with a specific condition in relation to the traumatic incident of September 15, 2016. OWCP advised that further factual and medical evidence was necessary to establish the claim. Appellant was afforded 30 days to submit the necessary evidence.

Appellant resubmitted the work status report dated September 16, 2016. The report contained a diagnosis of “injury of sciatic nerve at hip and thigh level, right leg, initial encounter.” The signature of the physician remained illegible.

Appellant also submitted a report dated July 18, 2016. In this report, Dr. R. Gray Chilcoat, a Board-certified diagnostic radiologist, examined the results of an x-ray of her left foot, finding small posterior and plantar heel spurs, as well as soft tissue swelling over the dorsum of the foot. He stated an impression of no acute abnormalities.

By decision dated November 3, 2016, OWCP denied appellant’s claim. It accepted that the alleged incident occurred, but found that she had not submitted any medical evidence containing a work-related diagnosis from a qualified physician establishing causal relationship.

## **LEGAL PRECEDENT**

An employee seeking benefits under FECA<sup>3</sup> 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 timely filed within the applicable time limitation period of FECA, that an injury<sup>4</sup> was sustained in the performance of

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<sup>3</sup> *Supra* note 1.

<sup>4</sup> OWCP’s regulations define a traumatic injury as a condition of the body caused by a specific event or incident, or series of events or incidents, within a single workday or shift. Such condition must be caused by external force, including stress or strain, which is identifiable as to time and place of occurrence, and member or function of the body affected. 20 C.F.R. § 10.5(ee).

duty as alleged, and that any disability or medical condition for which compensation is claimed is causally related to the employment injury.<sup>5</sup>

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it must first be determined whether fact of injury has been established. A fact of injury determination is based on two elements. 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. 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. An employee may establish that the employment incident occurred as alleged but fail to show that his or her condition relates to the employment incident.<sup>6</sup>

### ANALYSIS

The Board finds that appellant has not met her burden of proof to establish a claim for a September 15, 2016 work-related injury because she did not submit any medical evidence from a verified physician establishing any medical diagnosis causally related to the employment activity.

Appellant initially submitted the September 16, 2016 work status report which was illegible. OWCP sent her a development letter dated September 28, 2016, requesting that she needed to provide an accompanying medical report to the work status report dated October 17, 2016 in order to establish a work-related diagnosis from a qualified physician. In response, appellant resent the October 17, 2016 work status report, listing her diagnosis as, “injury of sciatic nerve at hip and thigh level, right leg, initial encounter.” However, the signature on this report remained illegible. Appellant also sent a July 18, 2016 diagnostic report relating to her left foot.

The Board has previously found that a medical report may not be considered as probative medical evidence if there is no indication that the person completing the report qualifies as physician as defined in 5 U.S.C. § 8101(2).<sup>7</sup> The Board has held that unsigned reports or ones that bear illegible signatures cannot be considered as probative medical evidence because they lack proper identification.<sup>8</sup> Because the signature on the October 17, 2016 work status report is illegible, the Board is unable to verify whether the person who prepared the report was a physician. As such, the diagnosis included on the work status report is of no probative value and thus, is insufficient to establish that appellant had been diagnosed with a condition related to her workers’ compensation claim.

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<sup>5</sup> *T.H.*, 59 ECAB 388, 393 (2008); *see Steven S. Saleh*, 55 ECAB 169, 171-72 (2003); *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

<sup>6</sup> *See Shirley A. Temple*, 48 ECAB 404, 407 (1997); *John J. Carlone* 41 ECAB 354, 356-57 (1989).

<sup>7</sup> *See Merton J. Sills*, 39 ECAB 572, 575 (1988).

<sup>8</sup> *See J.P.*, Docket No. 16-0501 (issued July 11, 2016).

The July 18, 2016 report from Dr. Chilcoat, is not probative with regard to appellant's present claim as it was rendered months before her claimed injury, and because it concerns a bodily member that she did not claim on her Form CA-1. Moreover, his report stated an impression of no acute abnormalities. This report is therefore of no probative value as it did not contain a rationalized opinion regarding whether the September 15, 2016 work activity caused a personal injury.<sup>9</sup>

OWCP advised appellant of the evidence required to establish her claim. However, appellant failed to submit such evidence. Causal relationship must be established by rationalized medical opinion evidence. Appellant did not provide a medical opinion which describes or explains the medical process through which the September 15, 2016 work activity would have caused an injury.<sup>10</sup> Accordingly, she did not meet her burden of proof to establish that she sustained a lower back injury on September 15, 2016 causally related to the employment incident.

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 her burden of proof to establish an injury causally related to the accepted September 15, 2016 employment incident.

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<sup>9</sup> See *S.D.*, Docket No. 16-1043 (issued February 8, 2017).

<sup>10</sup> *Id.*

**ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated November 3, 2016 is affirmed.

Issued: July 6, 2017  
Washington, DC

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

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

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