



Appellant was treated in the emergency room by Dr. Ann C. Czarnik, Board-certified in emergency medicine, on July 29, 2015 for groin pain. He was provided discharge instructions for adult constipation and testicular pain, unclear cause. Dr. Czarnik recommended that appellant follow up with his primary care provider. Appellant submitted a bill and an explanation of benefits, dated July 8, 2016, for treatment on July 29, 2015.<sup>2</sup>

By letter dated August 29, 2016, OWCP advised appellant of the type of evidence needed to establish his claim, particularly requesting that he submit a physician's reasoned opinion addressing the relationship between his claimed condition and specific employment factors. It noted that the current medical evidence did not contain diagnoses. OWCP further noted that medical evidence must be submitted by a qualified physician and that a physician assistant is not considered a qualified physician under FECA.

Appellant submitted an emergency physician record from Dr. Czarnik for male genitourinary problems dated July 29, 2015 where he was treated for groin pain. He reported sitting at his desk and experiencing an acute onset of groin and testicular pain that was intermittent and worse when standing and walking. Appellant indicated that he never experienced this sort of pain before. Dr. Czarnik noted symptoms of left testicle pain. She diagnosed scrotal/testicular pain, nonspecific and constipation. Dr. Czarnik advised that appellant's condition improved and recommended follow up with the primary care provider.

A triage nursing note dated July 29, 2015 indicated a history of left lower quadrant pelvic pain near the groin. Appellant reported sitting in a chair when he had a sudden onset of intermittent pinching pain.

A computerized tomography scan of the abdomen dated July 29, 2015 revealed three clustered large calculi, nonobstructive at the upper pole of the kidney, moderate retained fecal content throughout the colon, and uncharacterized hypodensity within the liver representing a cyst or hemangioma. An ultrasound of the testicular/scrotum dated July 29, 2015 revealed small bilateral epididymal cysts, otherwise unremarkable. A urinalysis revealed no abnormalities.

In a September 29, 2016 decision, OWCP denied the claim finding that appellant failed to submit any medical evidence containing a medical diagnosis in connection with the accepted work incident.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA 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 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 related to

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<sup>2</sup> Appellant also provided was an October 19, 2014 emergency physician record for a condition unrelated to the claimed groin injury.

the employment injury. 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.<sup>3</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. There are two components involved in establishing fact of injury. 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. Second, the employee must submit medical evidence to establish that the employment incident caused a personal injury.<sup>4</sup>

Rationalized medical opinion evidence is generally required to establish causal relationship. The opinion of the physician must be based on a complete factual and medical background, 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.<sup>5</sup>

### ANALYSIS

It is undisputed that on July 29, 2015, while working as a logistics management specialist, appellant moved a printer and placed it on a shelf. However, the Board finds that he failed to submit sufficient medical evidence to establish that this work incident caused or aggravated a diagnosed medical condition. In a letter dated August 29, 2016, OWCP requested that appellant submit a comprehensive medical report from his treating physician which included a reasoned explanation as to how the accepted work incident had caused his claimed injury.

Appellant submitted a July 29, 2015 report from Dr. Czarnik who treated him for groin pain. He was provided discharge instructions for adult constipation and testicular pain, unclear cause. In an emergency physician record for male genitourinary problems dated July 29, 2015, Dr. Czarnik treated appellant for groin pain. Appellant reported sitting at his desk and experiencing an acute onset of groin and testicular pain that was intermittent and worse when standing and walking. She diagnosed scrotal/testicular pain, nonspecific and constipation and recommended follow up with the primary care provider. However, Dr. Czarnik merely repeated the history of injury as reported by appellant without providing her own opinion regarding whether appellant's condition was work related.<sup>6</sup> Furthermore, Dr. Czarnik failed to provide a rationalized opinion regarding causal relationship between appellant's diagnosed conditions and

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<sup>3</sup> *Gary J. Watling*, 52 ECAB 357 (2001).

<sup>4</sup> *T.H.*, 59 ECAB 388 (2008).

<sup>5</sup> *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 345 (1989).

<sup>6</sup> *Frank Luis Rembisz*, 52 ECAB 147 (2000) (medical opinions based on an incomplete history or which are speculative or equivocal in character have little probative value).

the accepted work incident.<sup>7</sup> Therefore, these reports are insufficient to meet appellant's burden of proof.

Appellant submitted a triage nursing note dated July 29, 2015. However, the Board has held that treatment notes signed by a nurse are not considered medical evidence as nurses are not physicians under FECA and are not competent to render a medical opinion under FECA.<sup>8</sup>

The remainder of the medical evidence is of limited probative value as it fails to provide a physician's opinion on causal relationship between the accepted work incident and his diagnosed medical conditions.<sup>9</sup> For this reason, this evidence is insufficient to meet his burden of proof.

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 his condition was caused, precipitated, or aggravated by his employment is sufficient to establish causal relationship. Causal relationship must be established by rationalized medical opinion evidence.<sup>10</sup> Appellant failed to submit such evidence and therefore has not met his burden of proof.

On appeal appellant contends that he submitted sufficient evidence that he sustained a groin injury causally related to moving a printer at work on July 29, 2015. He noted having to pay medical bills in excess of \$1,000.00. As explained above, the medical evidence of record does not establish a diagnosed medical condition causally related to the accepted work incident. Appellant has not submitted a physician's report which describes how the July 29, 2015 incident caused or aggravated a groin injury.

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 causally related to the July 29, 2015 employment incident.

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<sup>7</sup> *Jimmie H. Duckett*, 52 ECAB 332 (2001); *Franklin D. Haislah*, 52 ECAB 457 (2001) (medical reports not containing rationale on causal relationship are entitled to little probative value).

<sup>8</sup> *See David P. Sawchuk*, 57 ECAB 316, 320 n.11 (2006) (lay individuals such as physician assistants, nurses, and physical therapists are not competent to render a medical opinion under FECA); 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). *See also B.B.*, Docket No. 09-1858 (issued April 16, 2010) (nurse's reports are of no probative medical value as nurses are not considered physicians under FECA).

<sup>9</sup> *See S.E.*, Docket No. 08-2214 (issued May 6, 2009) (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>10</sup> *See Dennis M. Mascarenas*, 49 ECAB 215 (1997).

**ORDER**

**IT IS HEREBY ORDERED THAT** the September 29, 2016 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: June 12, 2017  
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