



## **FACTUAL HISTORY**

On January 16, 2018 appellant, then a 42-year-old city carrier, filed a traumatic injury claim (Form CA-1) alleging that he developed left elbow pain while closing the door of his work vehicle with his left arm. He stopped work on that day.

The employing establishment provided an authorization for examination and/or treatment (Form CA-16) dated January 16, 2018.

In support of his claim, appellant provided a report dated January 16, 2018 from Dr. Thomas Church, a Board-certified diagnostic radiologist, finding that appellant's left elbow x-ray demonstrated mild soft tissue swelling with no fracture. He noted that the injury occurred at work.

On January 17, 2018 Dr. Michael R. Humphrey, a Board-certified internist, diagnosed left elbow ulnar contusion which occurred on January 16, 2018. He also provided notes dated January 16, 2018 from Leslie Johnson, a physician assistant, and January 2018 notes from Angela Maas, a nurse practitioner.

In a development letter dated January 31, 2018, OWCP requested additional factual and medical evidence in support of appellant's traumatic injury claim. It afforded him 30 days for a response. No further evidence was submitted.

By decision dated March 1, 2018, OWCP denied appellant's traumatic injury claim, finding that he had not established causal relationship between his diagnosed left elbow condition and the accepted January 16, 2018 employment incident.

## **LEGAL PRECEDENT**

An employee seeking benefits under FECA<sup>2</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 filed within the applicable time limitation of FECA, that an injury was sustained in the performance of duty as alleged, and that any disability or specific condition for which compensation is claimed is causally related to 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 or she actually experienced the employment incident at the

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<sup>2</sup> *Id.*

<sup>3</sup> *J.S.*, Docket No. 18-0429 (issued August 27, 2018); *Gary J. Watling*, 52 ECAB 357 (2001).

time and 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 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

The Board finds that appellant has not met his burden of proof to establish a left elbow condition causally related to the accepted January 16, 2018 employment incident.<sup>6</sup>

In his January 16, 2018 report, Dr. Church noted that appellant's injury occurred at work and found that his left elbow x-ray demonstrated mild soft tissue swelling with no fracture. His report simply interpreted diagnostic studies with no firm medical diagnosis or opinion on the cause of appellant's injury.<sup>7</sup> The Board has held that medical evidence that does not offer an opinion regarding the cause of an employee's condition is of no probative value on the issue of causal relationship.<sup>8</sup> This report is therefore insufficient to establish appellant's claim.

Dr. Humphrey completed a form report on January 17, 2018 diagnosing a left elbow ulnar contusion which occurred on January 16, 2018. He did not provide a history of injury or an opinion on the cause of appellant's injury. As noted, medical evidence that does not offer an opinion regarding the cause of an employee's condition is of no probative value on the issue of causal relationship and, therefore, the submission of this report does not establish appellant's claim for a January 16, 2018 employment injury.<sup>9</sup>

Appellant also provided treatment notes from a physician assistant and a nurse practitioner. Reports signed solely by a physician assistant<sup>10</sup> or a nurse practitioner<sup>11</sup> are of no probative value

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<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> *James Mack*, 43 ECAB 321 (1991).

<sup>7</sup> It is not possible to establish the cause of a medical condition, if the physician has not stated a firm medical diagnosis. *T.G.*, Docket No. 13-0076 (issued March 22, 2013).

<sup>8</sup> *See L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

<sup>9</sup> *Id.*

<sup>10</sup> *C.K.*, Docket No. 17-1853 (issued August 27, 2018).

<sup>11</sup> *M.C.*, Docket No. 17-1983 (issued August 17, 2018).

as neither of these treatment providers are considered a physician as defined under FECA and therefore are not competent to provide a medical opinion.<sup>12</sup>

An award of compensation may not be based on surmise, conjecture, speculation, or on the employee's own belief of causal relation.<sup>13</sup> Appellant's honest belief that his accepted employment incident caused a left elbow injury, however sincerely held, does not constitute medical evidence sufficient to establish causal relationship.<sup>14</sup> In the instant case, the record lacks rationalized medical evidence establishing causal relationship between the January 16, 2018 employment incident and his diagnosed left elbow condition.<sup>15</sup> Thus, appellant has not met his burden of proof.<sup>16</sup>

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 a left elbow condition causally related to the accepted January 16, 2018 employment incident.

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<sup>12</sup> See *David P. Sawchuk*, 57 ECAB 316, 320 n.11 (2006) (lay individuals such as physicians assistants, nurses, and physical therapists are not competent to render a medical opinion under FECA); *Charley V.B. Harley*, 2 ECAB 208 (1949) (the Board held that medical opinion, in general, can only be given by a qualified physician). See also 5 U.S.C. § 8101(2).

<sup>13</sup> *Id.*; *D.D.*, 57 ECAB 734 (2006).

<sup>14</sup> *D.A.*, Docket No. 18-0894 (issued November 8, 2018); *H.H.*, Docket No. 16-0897 (issued September 21, 2016).

<sup>15</sup> *Id.*

<sup>16</sup> The Board notes that the employing establishment issued appellant a Form CA-16 dated January 16, 2018 which was signed by the employing establishment. The Board has held that where an employing establishment properly executes a Form CA-16, which authorizes medical treatment as a result of an employee's claim for an employment-related injury, it creates a contractual obligation which does not involve the employee directly to pay the cost of the examination or treatment regardless of the action taken on the claim. See 20 C.F.R. §§ 10.300, 10.304; *D.M.*, Docket No. 13-535 (issued June 6, 2013).

**ORDER**

**IT IS HEREBY ORDERED THAT** the March 1, 2018 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: December 4, 2018  
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