



employment-related motor vehicle accident occurring that same day. She stated that she was hit by another moving vehicle on the driver's side while driving to lunch. Appellant did not stop work.

In support of her claim, appellant submitted medical bills for an emergency visit on January 20, 2016 and radiological services dated February 2, 2016.

In a February 17, 2016 development letter, OWCP advised appellant of the deficiencies of her claim and afforded her 30 days to submit additional evidence and respond to its inquiries.

Subsequently, appellant submitted a March 8, 2016 narrative statement indicating that she was in a temporary duty (TDY) travel status, and that there was no place at the duty station to obtain lunch. As such, she claimed that she had to go off-premises to obtain lunch. Appellant recounted that the incident happened in front of the employing establishment building when she was leaving the parking lot. She submitted a copy of the police report and a witness statement dated January 21, 2016. Appellant further submitted a medical bill for radiological services dated March 8, 2016.

In a January 20, 2016 report, Dr. Sidney Ware, an emergency medicine specialist, indicated that appellant was in a recent motor vehicle accident and diagnosed cervicalgia and pain in right knee.

On January 20, 2016 a nurse practitioner stated that appellant was seen and treated in the emergency department and was released to work that same day.

By decision dated March 18, 2016, OWCP accepted that the January 20, 2016 incident occurred in the performance of duty as alleged. However, it denied appellant's claim, finding that she failed to submit evidence containing a medical diagnosis in connection with the injury or events. Thus, OWCP concluded that she had not established fact of injury.

On April 27, 2016 appellant requested reconsideration and submitted hospital records dated January 20, 2016, including diagnostic testing results. On January 20, 2016 Dr. Ware asserted that appellant had been involved in a motor vehicle accident and diagnosed cervicalgia and pain in the right knee.

By decision dated September 16, 2016, OWCP modified its March 18, 2016 decision to reflect that the medical evidence submitted established a diagnosis. Thus, appellant had established the medical component of fact of injury. However, the claim remained denied as appellant failed to submit sufficient medical evidence to establish causal relationship between her diagnosed conditions and the January 20, 2016 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

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

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>3</sup> was sustained in the performance of duty as alleged, and that any disability or medical condition for which compensation is claimed is causally related to the employment injury.<sup>4</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 he or she actually experienced the employment incident at the time and 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>5</sup>

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence. 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.<sup>6</sup>

### ANALYSIS

OWCP has accepted that the January 20, 2016 employment incident occurred at the time, place, and in the manner alleged. The issue is whether appellant's diagnosed conditions resulted from the January 20, 2016 employment incident. The Board finds that appellant has not met her burden of proof to establish causal relationship between the conditions for which compensation is claimed and the accepted employment incident.

In a January 20, 2016 report, Dr. Ware asserted that appellant had been involved in a motor vehicle accident and diagnosed cervicgia and pain in right knee. The Board finds that Dr. Ware's diagnosis of pain in the right knee is a description of a symptom rather than a clear diagnosis of the medical condition.<sup>7</sup> The Board further finds that Dr. Ware failed to provide sufficient medical rationale explaining the mechanism of how being involved in a motor vehicle accident at work on January 20, 2016 caused appellant's cervicgia condition. Dr. Ware noted that her condition

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<sup>3</sup> OWCP 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).

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

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> The Board has consistently held that pain is a symptom, rather than a compensable medical diagnosis. See *P.S.*, Docket No. 12-1601 (issued January 2, 2013); *C.F.*, Docket No. 08-1102 (issued October 10, 2008).

occurred while she was at work, but such generalized statements do not establish causal relationship because they merely repeat appellant's allegations and are unsupported by adequate medical rationale explaining how her physical activity at work actually caused or aggravated the diagnosed condition.<sup>8</sup> Dr. Ware's opinion was based, in part, on temporal correlation. However, the Board has held that neither the mere fact that a disease or condition manifests itself during a period of employment, nor the belief that the disease or condition was caused or aggravated by employment factors or incidents is sufficient to establish causal relationship.<sup>9</sup> Dr. Ware did not otherwise sufficiently explain the reasons why diagnostic testing and examination findings led him to conclude that the accepted January 20, 2016 incident at work caused or contributed to the diagnosed condition. Thus, the Board finds that the reports from Dr. Ware are insufficient to establish that appellant sustained an employment-related injury.

Appellant further submitted evidence from a nurse practitioner. These reports do not constitute competent medical evidence because a nurse practitioner is not a "physician" as defined under FECA.<sup>10</sup> As such, this evidence is also insufficient to meet appellant's burden of proof.

Other medical evidence of record, including diagnostic testing reports, is of limited probative value and insufficient to establish the claim as it does not specifically address whether appellant's diagnosed conditions are causally related to the January 20, 2016 work incident.<sup>11</sup>

The Board finds that appellant has not submitted rationalized medical evidence sufficient to establish that she sustained an injury causally related to the accepted January 20, 2016 employment incident. Thus, she has not met 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 not met her burden of proof to establish that her cervical and right knee conditions are causally related to a January 20, 2016 employment incident.

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<sup>8</sup> See *K.W.*, Docket No. 10-0098 (issued September 10, 2010).

<sup>9</sup> See *E.J.*, Docket No. 09-1481 (issued February 19, 2010).

<sup>10</sup> 5 U.S.C. § 8101(2); *Sean O'Connell*, 56 ECAB 195 (2004) (reports by nurse practitioners and physician assistants are not considered medical evidence as these health care providers are not considered physicians under FECA). See also *Gloria J. McPherson*, 51 ECAB 441 (2000); *Charley V.B. Harley*, 2 ECAB 208, 211 (1949) (a medical issue such as causal relationship can only be resolved through the submission of probative medical evidence from a physician).

<sup>11</sup> See *K.W.*, 59 ECAB 271 (2007); *A.D.*, 58 ECAB 149 (2006); *Linda I. Sprague*, 48 ECAB 386 (1997) (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).

**ORDER**

**IT IS HEREBY ORDERED THAT** the September 16, 2016 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: June 13, 2018  
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