

September 10, 2014, he sustained shoulder, neck, and back pain, and tightness in those areas while examining contents of boxes and lifting up heavy precut fabric to ensure there was no contraband in the boxes. He did not indicate on the claim form that he had stopped work.

On a September 11, 2014 authorization for examination and treatment (Form CA-16), P.R., a safety specialist, noted an injury date of September 10, 2011 when appellant sustained tightness in his neck, shoulders, and back from handling material. He approved treatment for the effects from the claimed incident.

In a September 11, 2014 attending physician's report (Form CA-16) and a duty status report (Form CA-17) of the same date, Dr. Hugh S. Moore, a specialist in family medicine, diagnosed back pain and muscle spasm. He noted that appellant was totally disabled from work during the period September 11 to 15, 2014. Dr. Moore reported that appellant pulled a back muscle on September 10, 2014 when pulling objects in a box.

In a September 15, 2014 attending physician's report (Form CA-20), Dr. Moore diagnosed muscle spasm. He checked a box marked "yes" in response to the question of whether the condition was caused or aggravated by the employment incident by noting the condition started after lifting.

Dr. Moore, in a September 22, 2014 work evaluation form (OWCP-5c) diagnosed back pain and provided work restrictions. In a September 22, 2014 report, he diagnosed muscle spasm and back pain. Dr. Moore detailed normal lumbar and thoracic spine examination findings. On a Form CA-20 dated September 22, 2014 he noted that appellant had been referred for physical therapy and to a back specialist.

On September 30, 2014 appellant was seen by Dr. Cary Cirilli, a Board-certified diagnostic radiologist, at Kings Daughters Hospital for back pain. Dr. Cirilli reviewed a magnetic resonance imaging (MRI) scan and diagnosed lumbar degenerative facet changes without compression fracture.

An October 7, 2014 MRI scan interpreted by Dr. Tim Usey, Board-certified in diagnostic radiology, found no thoracic spine acute abnormality, mild S-shaped scoliosis, or chronic T5 mild superior endplate compression fracture.

Dr. Moore, in an October 14, 2014 Form CA-20, referenced his prior reports and diagnosed muscle spasm and back pain. He noted a history of chronic vertebrae compression fracture by MRI scan. Dr. Moore checked a box marked "yes" in response to the question of whether the diagnosed condition had been caused or aggravated by the employment incident. Next, he indicated that appellant was totally disabled from work for the period September 23 to October 28, 2014.

In a Form CA-20 dated October 28, 2014, Dr. Moore, referenced his prior reports, diagnosed muscle spasm and back pain, a history of neck vertebrae compression fracture, and indicated appellant could return to work on October 28, 2014. He again checked a box marked "yes" in response to the question of whether the diagnosed condition had been caused or aggravated by the employment incident. In an October 28, 2014 Form OWCP-5c, Dr. Moore indicated that appellant was unable to perform his usual job.

In a December 8, 2014 letter, OWCP noted that appellant's claim initially appeared to be a minor injury that resulted in minimal lost time from work. It had approved a limited amount of medical expenses without considering the merits of his claim. OWCP reopened appellant's claim as the medical bills had exceeded \$1,500.00. It requested that he provide additional factual and medical evidence in support of his traumatic injury claim and afforded him 30 days to respond.

In response to OWCP's request appellant submitted new evidence and resubmitted previous evidence.

Appellant was seen by Dr. Moore on September 11, 2014 for complaints of bilateral back pain from lifting boxes at work the day prior. He related that he developed bilateral back pain at work after bending. A physical examination of the lumbar and thoracic spine revealed normal findings. Dr. Moore diagnosed back pain and muscle spasm.

On September 15, 2014 appellant was again seen by Dr. Moore for complaints of pain between his shoulders and back pain. Dr. Moore reported normal lumbar and thoracic range of motion, and no tenderness on palpation. He diagnosed muscle spasm.

In a September 23, 2014 Form CA-20, Dr. Moore diagnosed muscle spasm and back pain and again checked a box marked "yes" in response to the question of whether the condition had been caused or aggravated by the work incident. Under history of injury, he noted that appellant pulled a back muscle while lifting and checking material in boxes. Dr. Moore indicated that appellant was disabled from working from September 23 to October 7, 2014.

Dr. Moore, in a September 23, 2014 report, noted that appellant was seen for completion of workers' compensation forms. He detailed his physical examination findings and diagnosed back pain and muscle spasm. Dr. Moore indicated that appellant was to be off work for two weeks and referred for a thoracic MRI scan.

In an October 7, 2014 report, Dr. Moore noted that appellant was seen for a follow-up on his work injury. Examination findings were unchanged from prior reports. Dr. Moore diagnosed back pain.

Physical therapy notes covering the period November 3 to 19, 2014 reported a diagnosis of cervicalgia.

By decision dated January 16, 2015, OWCP denied appellant's claim. It found that he had not established that a medical condition was diagnosed in connection with the accepted employment incident.

In an appeal request form dated and received February 5, 2015, appellant requested reconsideration and submitted additional evidence in support of the request.

In a January 28, 2015 report, Dr. Walter M. Burnett, a specialist in family medicine, diagnosed hyperlipidemia, acute stress disorder, thoracic spine degenerative arthritis, and left shoulder area muscle spasm. He reported that appellant strained his back at work in October 2014 as the result of lifting heavy boxes. Dr. Burnett further reported under history of

injury that appellant had been diagnosed with a compression deformity/fracture which he explained was consistent with osteoarthritis or degenerative arthritis. Moreover, he opined that the evidence of record was clear that appellant's lifting boxes at work was the cause of his degenerative joint disease and degenerative disc pain. Examination findings included thoracic left paraspinal muscle tenderness, and normal range of motion.

In an amendment dated February 5, 2015, Dr. Burnett noted that the date of injury should have been September 10, 2014, not October 2014. He also corrected the history of injury to reflect that the injury occurred while lifting heavy materials out of a box instead of lifting heavy boxes.

By decision dated February 19, 2015, OWCP denied modification. It found the medical evidence of record was insufficient to establish his claim as Dr. Burnett did not provide a firm diagnosis causally related to the accepted September 10, 2014 work incident.

In forms dated April 15 and 16, 2015, appellant requested reconsideration and submitted additional evidence in support of his claim. He submitted notes dated September 11, 15, and 22 and October 14, 2014, which were amended by Dr. Moore on April 1, 2015. The September 11 and 15, 2014 notes were amended to report a diagnosis of upper back pain instead of lower back pain while the September 22 and October 14, 2014 notes added upper back pain as a diagnosis.

On April 13, 2015 Dr. Burnett reported that appellant sustained a work injury on September 20, 2014 and had been initially treated by Dr. Moore. While being treated by Dr. Moore, the diagnosed degenerative arthritis and a T5 compression fracture. He amended his February 5, 2015 report to reflect that the lifting boxes on September 10, 2014 directly caused the compression fracture. Dr. Moore explained that the stress to appellant's vertebrae from lifting the boxes was sufficient to cause a fracture. He further noted that appellant's spinal degenerative arthritis made it easier for the fracture to occur when appellant lifted the heavy boxes.

By decision dated May 27, 2015, OWCP found the medical evidence of record was sufficient to establish a diagnosis, but the evidence remained insufficient to establish that the diagnosed condition was causally related to the accepted September 10, 2014 work incident. Thus, it denied modification.

Appellant requested reconsideration on January 11, 2016. He argued that Dr. Burnett clearly diagnosed a medical condition which he attributed to the accepted September 10, 2014 work incident. Thus, appellant argued that OWCP should have accepted his claim as he had established a medical condition causally related to the accepted work incident.

By decision dated March 3, 2016, OWCP denied modification. It found the medical evidence and argument submitted insufficient to warrant modification of the denial of his claim as causal relationship was not established.

On November 11, 2016 appellant requested reconsideration. He argued that Dr. Burnett's opinion was clear that his T5 compression fracture had been caused by his lifting on September 10, 2014 at work. Appellant also provided a more detailed description of the activity he was engaged in on September 10, 2014, which he believed caused the fracture.

By decision dated January 31, 2017, OWCP denied modification. It again concluded that causal relationship had not been established between the diagnosed condition and the accepted employment incident.

LEGAL PRECEDENT

An employee seeking benefits under FECA² 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 is causally related to the employment injury.³ 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.⁴

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.⁵ First, the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time, place, and in the manner alleged.⁶ 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.⁷

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence.⁸ Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on whether there is causal relationship between the employee's diagnosed condition and the work incident.⁹ 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 incident.¹⁰

² *Id.*

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

⁴ *S.P.*, 59 ECAB 184 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

⁵ *B.F.*, Docket No. 09-60 (issued March 17, 2009); *Bonnie A. Contreras*, *supra* note 3.

⁶ *D.B.*, 58 ECAB 464 (2007); *David Apgar*, 57 ECAB 137 (2005).

⁷ *C.B.*, Docket No. 08-1583 (issued December 9, 2008); *D.G.*, 59 ECAB 734 (2008); *Bonnie A. Contreras*, *supra* note 3.

⁸ *Y.J.*, Docket No. 08-1167 (issued October 7, 2008); *A.D.*, 58 ECAB 149 (2006); *D'Wayne Avila*, 57 ECAB 642 (2006).

⁹ *J.J.*, Docket No. 09-27 (issued February 10, 2009); *Michael S. Mina*, 57 ECAB 379 (2006).

¹⁰ *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 345 (1989).

ANALYSIS

The Board finds that appellant has not established an injury causally related to the accepted September 10, 2014 work incident.

Medical evidence submitted to support a claim for compensation should reflect a correct history, and the physician should offer a medically-sound explanation of how the claimed work event caused or aggravated the claimed condition.¹¹ No physician offered such an opinion in this case.

In support of his claim appellant submitted multiple form and progress reports from Dr. Moore. He initially diagnosed muscle spasm and back pain. The Board has noted that a “muscle spasm” is generally a symptom rather than a firm diagnosis.¹² The Board has also held that a diagnosis of “pain” does not constitute the basis for the payment of compensation.¹³

Dr. Moore, in a September 11, 2014 Form CA-16, September 11, 2014 Form CA-17, and September 28, 2014 Form CA-20, noted that appellant pulled a muscle on September 10, 2014 when pulling material from a box. However, in his September 11 and 15, 2014 progress notes, he related that examination of appellant’s lumbar and thoracic spines revealed normal findings. Dr. Moore did not explain why he believed appellant would have sustained a muscle injury if his physical examination was normal. Medical evidence that states a conclusion, but does not offer any rationalized medical explanation regarding the cause of an employee’s condition is of limited probative value on the issue of causal relationship.¹⁴

On a series of CA-20 forms completed by Dr. Moore dated October 14 and 28, 2014 are also insufficient to support his claim. On these forms he noted a history of chronic vertebrae compression fracture by MRI scan. Dr. Moore checked a box marked “yes” in response to the question of whether appellant’s condition was caused or aggravated by the described injury. He, however, did not provide any explanation or offer any medical rationale to support his opinion on causal relationship. The Board has held that when a physician’s opinion on causal relationship consists only of checking “yes” to a form question, without explanation or rationale, that opinion is of diminished probative value and is insufficient to establish a claim.¹⁵ The remaining reports and form reports from Dr. Moore are also insufficient to establish appellant’s claim as he offered no opinion as to the cause of a diagnosed condition or noted that appellant pulled a back muscle due the accepted work incident. As previously noted medical evidence that does not offer any rationalized opinion regarding the cause of an employee’s condition is of limited probative value on the issue of causal relationship and are insufficient to establish

¹¹ *D.D.*, Docket No. 13-1517 (issued April 14, 2014); *Michael S. Mina*, *supra* note 9.

¹² *Deborah L. Beatty*, 54 ECAB 340 (2003); *see also D.B.*, Docket No. 14-1815 (issued December 16, 2014).

¹³ *Robert Broome*, 55 ECAB 339 (2004).

¹⁴ *See J.F.*, Docket No. 09-1061 (issued November 17, 2009); *A.D.*, *supra* note 8.

¹⁵ *D.D.*, 57 ECAB 734, 738 (2006); *Deborah L. Beatty*, *supra* note 12.

appellant's claim.¹⁶ For the above reasons, Dr. Moore's reports fail to establish appellant's claim.

In a January 28, 2015 report, Dr. Burnett obtained a history of injury that appellant injured his back at work due to lifting heavy boxes in October 2014. He diagnosed degenerative joint disease and degenerative disc pain, which he attributed to the work injury. Dr. Burnett, in a subsequent report, corrected his injury history to reflect September 10, 2014 as the date of injury, and that the injury occurred as the result of lifting heavy material out of a box and not due to lifting heavy boxes. In an April 15, 2015 report, he attributed appellant's compression fracture to the September 10, 2014 incident which required heavy lifting. Dr. Burnett did not offer any medical explanation as to how his corrected history of injury affected his opinion regarding causal relationship. Without any medical explanation or reasoning in support of his opinion of causal relationship, based upon an accurate history of injury, his reports are insufficient to establish that the accepted incident resulted in the diagnosed conditions.¹⁷

The Board also notes that although Dr. Burnett provided an affirmative opinion which supported causal relationship, he did not offer any rationalized medical explanation to support his opinion. Medical evidence that states a conclusion, but does not offer any rationalized medical explanation regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship.¹⁸ The Board has found that a physician must provide a narrative description of the identified employment incident and a reasoned opinion on whether the employment incident described caused or contributed to appellant's diagnosed medical condition.¹⁹ For these reasons, Dr. Burnett's reports fail to establish appellant's claim.

The September 23, 30, and October 7, 2014 MRI scans did not provide a cause of any diagnosed conditions. The Board has long held that diagnostic reports which offer no opinion regarding causal relationship are of limited probative value.²⁰

The physical therapy notes of record lack probative value and are insufficient to establish appellant's claim because physical therapists are not considered physicians as defined under FECA and their medical opinions regarding diagnosis and causal relationship are of no probative value.²¹

¹⁶ *R.E.*, Docket No. 10-0679 (issued November 16, 2010); *K.W.*, 59 ECAB 271 (2007); *Jaja K. Asaramo*, 55 ECAB 200 (2004).

¹⁷ *See L.C.*, Docket No. 17-0932 (issued September 15, 2017).

¹⁸ *J.F.*, *supra* note 14; *A.D.*, *supra* note 8.

¹⁹ *John W. Montoya*, 54 ECAB 306 (2003).

²⁰ *See G.H.*, Docket No. 17-1387 (issued October 24, 2017).

²¹ *David P. Sawchuk*, 57 ECAB 316, 320 n.11 (2006). *See also D.H.*, Docket No. 17-0609 (issued October 5, 2017) (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).

An award of compensation may not be based on surmise, conjecture, speculation, or on the employee's own belief of causal relation.²² Appellant's honest belief that the September 10, 2014 employment incident caused injury is not in question, but that belief, however sincerely held, does not constitute the medical evidence to establish causal relationship.²³

The Board notes that the employing establishment executed a Form CA-16 on September 11, 2014 authorizing medical treatment. 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.²⁴ Although OWCP denied appellant's claim for an injury, it did not address whether he is entitled to reimbursement of medical expenses pursuant to the Form CA-16.²⁵

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 established an injury causally related to the accepted September 10, 2014 employment incident.

²² *D.D.*, *supra* note 15.

²³ *H.H.*, Docket No. 16-0897 (issued September 21, 2016).

²⁴ *See D.M.*, Docket No. 13-0535 (issued June 6, 2013); *L.B.*, Docket No. 10-0469 (issued June 2, 2010). *See also* 20 C.F.R. § 10.304; Federal (FECA) Procedure Manual, Part 3 -- Medical, *Authorizing Examination and Treatment*, Chapter 3.300.3(a)(3) (February 2012).

²⁵ *L.D.*, Docket No. 16-1289 (issued December 8, 2016).

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated January 31, 2017 is affirmed.

Issued: March 5, 2018
Washington, DC

Christopher J. Godfrey, 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