

**United States Department of Labor
Employees' Compensation Appeals Board**

S.D., Appellant)	
)	
and)	Docket No. 19-1240
)	Issued: December 11, 2019
U.S. POSTAL SERVICE, POST OFFICE,)	
Greensboro, NC, Employer)	
)	

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
CHRISTOPHER J. GODFREY, Chief Judge
PATRICIA H. FITZGERALD, Deputy Chief Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On May 17, 2019 appellant filed a timely appeal from an April 23, 2019 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act¹ (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.²

ISSUE

The issue is whether appellant has met her burden of proof to establish left ankle and knee conditions causally related to the accepted February 15, 2019 employment incident.

¹ 5 U.S.C. § 8101 *et seq.*

² The Board notes that following the April 23, 2019 decision, OWCP received additional evidence. However, the Board's *Rules of Procedure* provides: The Board's review of a case is limited to the evidence in the case record that was before OWCP at the time of its final decision. Evidence not before OWCP will not be considered by the Board for the first time on appeal. 20 C.F.R. § 501.2(c)(1). Thus, the Board is precluded from reviewing this additional evidence for the first time on appeal. *Id.*

FACTUAL HISTORY

On February 23, 2019 appellant, then a 27-year-old city carrier assistant, filed a traumatic injury claim (Form CA-1) alleging that on February 15, 2019 she sustained injuries to her left ankle and knee when she tripped and fell from a step while in the performance of duty. On the reverse side of the claim form, the employing establishment indicated that appellant stopped work on February 16, 2019 and returned to work on February 26, 2019.

In an attending physician's report (Form CA-20) dated February 15, 2019, Elizabeth Laney, a nurse practitioner, indicated that appellant injured her ankle when she stepped off a curb and fell. She diagnosed "possible ankle sprain" and checked a box marked "yes" indicating that the condition was caused or aggravated by an employment activity. A duty status report (Form CA-17) was also completed by the nurse practitioner on February 15, 2019 which noted appellant's work restrictions.

An unsigned note dated February 20, 2019 indicated that appellant was seen in the emergency room on February 20, 2019 and that she could return to work with limited work activity on February 27, 2019.

In a development letter dated March 20, 2019, OWCP informed appellant that, when her claim was first received, it appeared to be for a minor injury that resulted in no lost time from work and, based on these criteria and because the employing establishment did not controvert continuation of pay or challenge the case, payment of a limited amount of medical expenses was administratively approved. It reopened the claim for formal consideration of the merits because she reported having ongoing medical issues. OWCP requested that appellant submit a narrative medical report from her physician, which contained a detailed description of findings and diagnoses, explaining how the reported work incident caused or aggravated her medical condition. It afforded her 30 days to submit the necessary evidence.

In a report dated April 10, 2019, Dr. Edwin R. Cadet, a Board-certified orthopedic surgeon, indicated that a magnetic resonance imaging (MRI) scan of appellant's left knee revealed a "possible left knee medial meniscus tear *versus* [medial collateral ligament] MCL sprain." In another report dated April 10, 2019, he related that he had seen appellant on that day for a left knee condition and that she could return to light-duty work.

By decision dated April 23, 2019, OWCP denied appellant's claim finding that the evidence of record was insufficient to establish that the diagnosed medical conditions were causally related to the accepted February 15, 2019 employment incident.

LEGAL PRECEDENT

An employee seeking benefits under FECA³ 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

³ *Supra* note 1.

time limitation period of FECA,⁴ that an injury 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.⁵ 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.⁶

To determine if an employee has sustained a traumatic injury in the performance of duty, OWCP begins with an analysis of whether fact of injury has been established. Generally, fact of injury consists of two components that must be considered in conjunction with one another. The first component is whether the employee actually experienced the employment incident that allegedly occurred.⁷ The second component is whether the employment incident caused a personal injury.⁸

Causal relationship is a medical question that requires rationalized medical opinion evidence to resolve the issue.⁹ 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 incident.¹⁰

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish left ankle and knee conditions causally related to the accepted February 15, 2019 employment incident.

In support of her claim, appellant submitted an April 10, 2019 report from Dr. Cadet who diagnosed “possible left knee medial meniscus tear *versus* MCL sprain.” He did not discuss the cause of appellant’s injury nor provide a history of injury in his report. The Board has held that medical evidence that does not offer an opinion regarding the cause of an employee’s conditions is of no probative value on the issue of causal relationship.¹¹ Therefore, Dr. Cadet’s report is insufficient to establish appellant’s claim.

⁴ A.S., Docket No. 19-0704 (issued September 11, 2019); *D.B.*, Docket No. 18-1359 (issued May 14, 2019); *S.B.*, Docket No. 17-1779 (issued February 7, 2018); *J.P.*, 59 ECAB 178 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

⁵ A.S., *id.*; *J.M.*, Docket No. 17-0284 (issued February 7, 2018); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

⁶ *C.G.*, Docket No. 19-0480 (issued July 18, 2019); *D.B.*, *supra* note 4; *K.M.*, Docket No. 15-1660 (issued September 16, 2016); *L.M.*, Docket No. 13-1402 (issued February 7, 2014); *Delores C. Ellyett*, 41 ECAB 992 (1990).

⁷ *C.G.*, *id.*; *M.H.*, Docket No. 18-1737 (issued March 13, 2019); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁸ A.S., *supra* note 4; *John J. Carlone*, 41 ECAB 354 (1989).

⁹ *P.S.*, Docket No. 19-0549 (issued July 26, 2019).

¹⁰ A.S., *supra* note 4; *S.S.*, Docket No. 18-1488 (issued March 11, 2019).

¹¹ See *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

Appellant also submitted a completed Form CA-20 and a Form CA-17 from Ms. Laney, a nurse practitioner. However, the Board has held that medical reports signed solely by a nurse practitioner are of no probative value, as nurse practitioners are not considered physicians as defined under FECA, and therefore are not competent to provide a medical opinion.¹² As these reports were not countersigned by a qualified physician, they are of no probative value to establish appellant's claim.¹³

Appellant also submitted an unsigned emergency room work restriction dated February 20, 2019. Reports that are unsigned or that bear illegible signatures cannot be considered as probative medical evidence because they lack proper identification.¹⁴

The Board finds that the medical evidence of record does not include a rationalized medical opinion explaining how appellant's alleged left ankle and knee conditions were physiologically caused by the accepted employment incident.¹⁵ Appellant has therefore not met her burden of proof to establish her claim.¹⁶

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 left ankle and knee conditions causally related to the accepted February 15, 2019 employment incident.

¹² *T.H.*, Docket No. 18-1736 (issued March 13, 2019); *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). *S.J.*, Docket No. 17-0783, n.2 (issued April 9, 2018) (nurse practitioners are not considered physicians under FECA).

¹³ *K.C.*, Docket No. 18-1330 (issued March 11, 2019); *see K.W.*, 59 ECAB 271, 279 (2007); Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3a(1) (January 2013).

¹⁴ *T.C.*, Docket No. 18-1351 (issued May 9, 2019); *Thomas L. Agee*, 56 ECAB 465 (2005).

¹⁵ *See N.S.*, Docket No. 19-0167 (issued June 21, 2019).

¹⁶ *See R.M.*, Docket No. 19-0332 (issued July 25, 2019).

ORDER

IT IS HEREBY ORDERED THAT the April 23, 2019 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: December 11, 2019
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