United States Department of Labor
Employees' Compensation Appeals Board

J.S., Appellant	)	
and	)	**Docket No. 18-1085**
	)	**Issued: February 12, 2019**
DEPARTMENT OF AGRICULTURE, U.S. FOREST SERVICE, Porterville, CA, 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
ALEC J. KOROMILAS, Alternate Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On May 3, 2018 appellant filed a timely appeal from a November 14, 2017 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act[1] (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 his burden of proof to establish a left wrist condition causally related to the accepted August 4, 2017 employment incident.

[1] 5 U.S.C. § 8101 *et seq.*

[2] The Board notes that appellant submitted additional evidence on appeal. 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 August 9, 2017 appellant, then a 20-year-old firefighter, filed a traumatic injury claim (Form CA-1) alleging that, on August 4, 2017, he sprained his left wrist when a log fell and struck it while clearing roads. On the reverse side of the claim form a supervisor stated that, while moving a cut round of wood, appellant slipped and fell to the ground, the round dislodged from his grip, and fell, landing on the left wrist, which had hit the ground from the slip.

Following the August 4, 2017 incident, appellant was transported by ambulance to the Sonora Regional Medical Center emergency department. The paramedic's report noted that appellant complained of left wrist pain after a log struck it. The preliminary medical assessment was left wrist closed fracture. An August 4, 2017 left wrist x-ray revealed "normal wrist findings." There was normal bony alignment with no evidence of fracture, no soft tissue swelling, and no soft tissue gas or opaque foreign body.

Appellant was treated in the emergency department by Matthew A. Williamson, a certified physician assistant (PA-C) and Dr. Steve C. Wang, an emergency medicine specialist and general surgeon. He was diagnosed with an "[i]njury of left wrist," prescribed Motrin and a wrist splint, and was discharged later that same day. An August 4, 2017 attending physician's report similarly noted a diagnosis of left wrist injury.

By development letter of October 3, 2017, OWCP advised appellant that the evidence submitted in support of his claim was insufficient to establish entitlement to FECA benefits. It explained that the August 4, 2017 left wrist x-ray was normal, and Dr. Wang's treatment records and report did not include a specific medical diagnosis or an opinion on causal relationship. OWCP explained that the doctor's notation of a nonspecific left wrist injury would not suffice. It afforded appellant 30 days to submit additional medical evidence.[3] No response was received.

By decision dated November 14, 2017, OWCP denied appellant's traumatic injury claim. It found that he had established that the August 4, 2017 incident occurred as alleged, but also found the medical evidence of record was insufficient to establish a diagnosed medical condition in connection with the accepted employment incident. Consequently, OWCP denied the claim finding that appellant had failed to establish the medical component of fact of injury thereby not meeting the requirements for an injury as defined by FECA.[4]

[3] The October 30, 2017 development letter was returned as undeliverable. However, in a November 14, 2017 telephone conversation (Form CA-110 notes), appellant acknowledged receipt of the mail, but stated that he returned it because the employing establishment reportedly would take care of everything. OWCP reiterated that he needed to submit "better medical evidence" to support his claim.

[4] Although OWCP ostensibly confirmed appellant's correct mailing address during its November 14, 2017 telephone conversation, the November 14, 2017 decision was similarly returned as undeliverable. Appellant later advised OWCP that he provided the wrong street address. OWCP subsequently forwarded copies of both the October 3, 2017 development letter and the November 14, 2017 decision to appellant's correct street address.

LEGAL PRECEDENT

An employee seeking benefits under FECA[5] 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 or specific condition for which compensation is claimed is causally related to the employment injury.[6] 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.[7] To determine if an employee sustained a traumatic injury in the performance of duty, OWCP begins with an analysis of whether fact of injury has been established.[8] 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.[9] The second component is whether the employment incident caused a personal injury.[10] An employee may establish that an injury occurred in the performance of duty as alleged, but fail to establish that the disability or specific condition for which compensation is being claimed is causally related to the injury.[11]

Causal relationship is a medical question that generally requires rationalized medical opinion evidence to resolve the issue.[12] A physician's opinion on whether there is a causal relationship between the diagnosed condition and the implicated employment factor(s) must be based on a complete factual and medical background.[13] Additionally, the physician's opinion must be expressed in terms of a reasonable degree of medical certainty, and must be supported by medical rationale, explaining the nature of the relationship between the diagnosed condition and appellant's specific employment factor(s).[14]

[5] *Supra* note 1.

[6] *J.P.*, Docket No. 18-1165 (issued January 15, 2019); *Alvin V. Gadd*, 57 ECAB 172 (2005); *Anthony P. Silva*, 55 ECAB 179 (2003).

[7] *See Elizabeth H. Kramm (Leonard O. Kramm)*, 57 ECAB 117 (2005); *Ellen L. Noble*, 55 ECAB 530 (2004).

[8] *T.H.*, 59 ECAB 388, 393-94 (2008).

[9] *Elaine Pendleton*, 40 ECAB 1143 (1989).

[10] *John J. Carlone*, 41 ECAB 354 (1989).

[11] *Shirley A. Temple*, 48 ECAB 404, 407 (1997).

[12] *T.H.*, *supra* note 8; *Robert G. Morris*, 48 ECAB 238 (1996).

[13] *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

[14] *Id.*

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish a left wrist condition causally related to the accepted August 4, 2017 employment incident.

The August 4, 2017 a paramedic's report is insufficient to establish appellant's entitlement to FECA benefits. Lay personnel such as physician assistants and paramedics are not considered physicians as defined under FECA and, thus, are not competent to render medical opinions.[15]

The August 4, 2017 emergency department treatment records and Dr. Wang's report contained an assessment of a nonspecific left wrist injury. The Board finds that Dr. Wang's assessment of left wrist injury is a description of a symptom rather than a clear diagnosis of a medical condition.[16] As such, this report is insufficient to establish that appellant sustained an employment-related injury.

Lastly, appellant's August 4, 2017 left wrist x-ray was interpreted as normal. Without a diagnosis or assessment of a left wrist condition, this report is insufficient to establish appellant's claim for a work-related injury.

There is no evidence of record that establishes a medical diagnosis in connection with the accepted employment incident. Accordingly, the Board finds that appellant has not met his burden of proof to establish a left wrist condition causally related to the accepted August 4, 2017 employment incident.

On appeal, appellant argues that his August 4, 2017 medical treatment, including the cost of ambulance services, should be covered because he was transported from work to the hospital. The August 4, 2017 attending physician's report (Part B) appears to be associated with a Form CA-16 (Authorization for Examination and/or Treatment), which if properly executed would relieve appellant of financial responsibility for the medical service(s) received.[17] However, the current record does not include a properly executed Form CA-16 authorizing medical treatment (Part A).

[15] 5 U.S.C. § 8101(2) of FECA provides as follows: a physician includes surgeons, podiatrist, dentists, clinical psychologists, optometrist, chiropractors, and osteopathic practitioners within the scope of their practice as defined by State law. Lay individuals are not competent to render a medical opinion under FECA. *See A.P.*, Docket No. 18-0238 (issued July 20, 2018); *David P. Sawchuk*, 57 ECAB 316, 320 n.11 (2006).

[16] *See J.T.*, Docket No. 17-0462 (issued August 9, 2018); *see also P.S.*, Docket No. 12-1601 (issued January 2, 2013); *C.F.*, Docket No. 08-1102 (issued October 10, 2008).

[17] Where an employing establishment properly executes a Form CA-16 authorizing medical treatment related to a claim for a work injury, the form creates a contractual obligation, which does not involve the employee directly, to pay for the cost of the examination/treatment regardless of the action taken on the claim. *See N.B.*, Docket No. 17-0927 (issued April 18, 2018); *Tracy P. Spillane*, 54 ECAB 608 (2003). The period for which treatment is authorized by a Form CA-16 is limited to 60 days from the date of issuance, unless terminated earlier by OWCP. *See* 20 C.F.R. § 10.300(c).

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 wrist condition causally related to the accepted August 4, 2017 employment incident.

ORDER

IT IS HEREBY ORDERED THAT the November 14, 2017 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: February 12, 2019
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