United States Department of Labor
Employees' Compensation Appeals Board

R.C., Appellant	)	
and	)	**Docket No. 18-1639**
	)	**Issued: February 26, 2019**
U.S. POSTAL SERVICE, POST OFFICE, Hopkinsville, KY, 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 August 28, 2018 appellant filed a timely appeal from a May 24, 2018 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act (FECA)[1] 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 traumatic injury causally related to the accepted April 9, 2018 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 April 11, 2018 appellant, then a 59-year-old rural carrier, filed a traumatic injury claim (Form CA-1) alleging that, on April 9, 2018, he sustained a mild concussion and gash above his right eye when he was involved in a motor vehicle accident around 1:00 p.m. while in the performance of duty. He stopped work on April 9, 2018.

In a development letter dated April 13, 2018, OWCP requested additional factual and medical evidence in support of the claim. It advised appellant of the type of factual and medical evidence needed and provided a factual questionnaire for his completion. It afforded him 30 days to submit the requested evidence.

Appellant subsequently submitted a continuation of pay (COP) nurse report dated April 19, 2018, which indicated that appellant's anticipated return to work date was April 25, 2018.

Appellant also submitted an unsigned return to work slip dated April 24, 2018, which indicated that appellant was to return to work on April 25, 2018.

By decision dated May 24, 2018, OWCP denied appellant's claim. It found that appellant had established that the April 9, 2018 incident occurred in the performance of duty, as alleged. OWCP denied the claim, however, because appellant had not submitted medical evidence containing a medical diagnosis in connection with the accepted April 9, 2018 employment incident.

LEGAL PRECEDENT

An employee seeking benefits under FECA[3] 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.[4] 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.[5]

In order to determine whether an employee 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, which must be considered in conjunction with one another. The first component to be established is that the employee actually experienced the employment incident, which is alleged to have occurred.[6] The second component is whether the

[3] *Supra* note 1.

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

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

[6] *R.E.*, Docket No. 17-0547 (issued November 13, 2018); *David Apgar*, 57 ECAB 137 (2005); *Delphyne L. Glover*, 51 ECAB 146 (1999).

employment incident caused a personal injury and generally can be established only by medical evidence.[7]

Causal relationship is a medical issue, and the medical evidence required to establish causal relationship is rationalized medical evidence.[8] The opinion of the physician must be based on a complete factual and medical background of the claimant, 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.[9] 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.[10]

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish a traumatic injury causally related to the accepted April 9, 2018 employment incident.

Appellant submitted a COP nurse's report, which did not contain a medical diagnosis. 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 render a medical opinion.[11]

Appellant also submitted an unsigned return-to-work slip dated April 24, 2018. Again, this note did not provide a medical diagnosis or opinion regarding causal relationship.[12] Furthermore, the Board has held that unsigned reports and reports that bear illegible signatures cannot be considered probative medical evidence because they lack proper identification.[13] Therefore, this form report is of no probative value.

[7] *R.E., id.*

[8] *G.N.*, Docket No. 18-0403 (issued September 13, 2018); *Jacqueline M. Nixon-Steward*, 52 ECAB 140 (2000).

[9] *K.V.*, Docket No. 18-0723 (issued November 9, 2018); *Leslie C. Moore*, 52 ECAB 132 (2000); *Gary L. Fowler*, 45 ECAB 365 (1994).

[10] *J.P.*, *supra* note 4; *Dennis M. Mascarenas*, 49 ECAB 215 (1997).

[11] *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).

[12] *Supra* note 9.

[13] *C.J.*, Docket No. 18-0298 (issued October 3, 2018); *see R.M.*, 59 ECAB 690 (2008); *D.D.*, 57 ECAB 734 (2006); *Richard J. Charot*, 43 ECAB 357 (1991).

Appellant has the burden of proof to submit rationalized medical evidence establishing that a diagnosed medical condition was causally related to the accepted April 9, 2018 employment incident.[14] He has not submitted such evidence and thus has not met his burden of proof.[15]

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 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 traumatic injury causally related to the accepted April 9, 2018 employment incident.

ORDER

IT IS HEREBY ORDERED THAT the May 24, 2018 decision of the Office of Workers' Compensation Program is affirmed.

Issued: February 26, 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

[14] *R.B.*, Docket No. 18-1327 (issued December 31, 2018); *see D.T.*, Docket No. 17-1734 (issued January 18, 2018).

[15] *R.B.*, *id.*; *see D.S.*, Docket No. 18-0061 (issued May 29, 2018).