



of flats sequencing system (FSS) out of the tub. She stopped work on May 30, 2017 and returned on June 19, 2017.

On May 31, 2017 appellant was seen by Daisy Kao, a nurse practitioner, who requested that appellant be excused from work from May 31 to June 2, 2017.

In a June 2, 2017 disability certificate, Dr. Sikander Kajani, an examining physician specializing in internal medicine, noted that appellant was under his care and was disabled from work from June 2 to 8, 2017.

In a June 17, 2017 note, Dr. David Petersen, a treating physician specializing in family medicine, reported that appellant was examined on June 7 and 17, 2017. He diagnosed a left rib injury and requested that appellant be excused from work until June 19, 2017.

By development letter dated August 4, 2017, OWCP informed appellant that the evidence of record was insufficient to establish her claim. It advised her of the type of medical and factual evidence required and attached a factual development questionnaire for her completion. OWCP afforded appellant 30 days to provide the requested information.

On August 16, 2017 appellant completed the questionnaire provided by OWCP. She related that she was cleaning out the hamper filled with FSS. While lifting the FSS, which was heavy, appellant pushed it into her ribs.

By decision dated September 5, 2017, OWCP denied appellant's traumatic injury claim. It found that she had not established a diagnosed medical condition due to the accepted May 30, 2017 incident.

On October 4, 2017 OWCP received appellant's request for review of the written record by an OWCP hearing representative.

Dr. Kajani, in a January 19, 2018 note, reported that appellant sprained her right chest wall due to lifting mail at work. He reviewed an x-ray interpretation, which was negative, and noted that appellant was unable to lift any weight and get up and walk around.

By decision dated February 23, 2018, an OWCP hearing representative affirmed the denial of appellant's claim. She found that appellant had not established the medical portion of her claim as Dr. Kajani had only diagnosed pain and there was no evidence of a medical diagnosis due to the accepted May 30, 2017 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 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

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

disability and/or specific condition for which compensation is claimed is causally related to the employment injury.<sup>3</sup> 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.<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.<sup>5</sup> 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.<sup>6</sup> 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.<sup>7</sup>

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence.<sup>8</sup> 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 compensable employment factors.<sup>9</sup> 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>10</sup>

### ANALYSIS

The Board finds that appellant has met her burden of proof to establish a diagnosed medical condition. However, the Board further finds that she has not met her burden of proof to establish that the diagnosed condition was causally related to the accepted employment incident.

Dr. Kajani, in a June 2, 2017 disability certificate, indicated that appellant was disabled from work from June 2 to 8, 2017. However, the disability certificate did not contain a history of injury, a medical diagnosis, or an opinion on causal relationship.<sup>11</sup> Thus, this report from Dr. Kajani was of little probative value to establish appellant's claim.

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

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

<sup>5</sup> B.F., Docket No. 09-0060 (issued March 17, 2009); *Bonnie A. Contreras*, *supra* note 3.

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

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

<sup>8</sup> E.J., Docket No. 18-0207 (issued July 13, 2018); *A.D.*, 58 ECAB 149 (2006).

<sup>9</sup> J.J., Docket No. 09-0027 (issued February 10, 2009); *Michael S. Mina*, 57 ECAB 379 (2008).

<sup>10</sup> P.R., Docket No. 18-0737 (issued November 2, 2018).

<sup>11</sup> *James Mack*, 43 ECAB 321 (1991).

Similarly, in a June 17, 2017 note, Dr. Petersen diagnosed a left rib injury and released appellant to return to work on June 19, 2017. His report, however, does not constitute probative medical evidence. This evidence failed to provide a history of injury,<sup>12</sup> examination findings, a firm diagnosis of a particular medical condition,<sup>13</sup> or a specific opinion as to whether the accepted May 30, 2017 employment incident caused or aggravated appellant's condition. The Board finds, therefore, that Dr. Petersen's report is of no probative value.<sup>14</sup>

While OWCP denied appellant's claim in part based upon a finding that Dr. Kajani had only diagnosed pain, but not a medical condition, the Board finds that he did provide a medical diagnosis in his January 19, 2018 report. In this report, Dr. Kajani related that appellant sprained her right chest wall while lifting mail at work.<sup>15</sup> This report, however, is insufficient to establish causal relationship. While Dr. Kajani diagnosed a right chest wall sprain, he did not explain how physiologically the movements involved in the employment incident caused or contributed to the diagnosed condition. Dr. Kajani failed to provide a rationalized opinion explaining how the employment incident caused or aggravated the diagnosed condition.<sup>16</sup> Thus, this report is of limited probative value.

OWCP also received a report from a nurse practitioner. This report has no probative medical value in establishing appellant's claim as a nurse practitioner is not considered a physician as defined under FECA.<sup>17</sup>

The record before the Board does not contain rationalized medical evidence establishing that appellant's diagnosed medical condition was causally related to the accepted May 30, 2017 employment incident. OWCP advised appellant that it was her responsibility to provide a comprehensive medical report, which described her symptoms, test results, diagnosis, history of treatment, and a physician's opinion, with medical reasons, on the cause of her conditions. Appellant has not submitted appropriate medical documentation in response to OWCP's request. An award of compensation may not be based on surmise, conjecture, speculation, or on the

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<sup>12</sup> See *D.P.*, Docket No. 17-1025 (issued August 18, 2017); see also *Frank Luis Rembisz*, 52 ECAB 147 (2000) (medical opinions based on an incomplete history have little probative value).

<sup>13</sup> See *Deborah L. Beatty*, 54 ECAB 340 (2003) (in the absence of a medical report providing a diagnosed condition and a reasoned opinion on causal relationship with the employment incident, appellant did not meet her burden of proof).

<sup>14</sup> See *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

<sup>15</sup> While appellant initially claimed an injury to her left rib cage, she subsequently explained on August 16, 2017 that she had pushed the FSS into her "ribs."

<sup>16</sup> See *L.M.*, Docket No. 14-0973 (issued August 25, 2014); *R.G.*, Docket No. 14-0113 (issued April 25, 2014); *K.M.*, Docket No. 13-1459 (issued December 5, 2013); *A.J.*, Docket No. 12-0548 (issued November 16, 2012).

<sup>17</sup> See 5 U.S.C. § 8101(2); see *David P. Sawchuk*, 57 ECAB 316, 320 n.11 (2006); *L.D.*, 59 ECAB 648 (2008) (a nurse practitioner is not considered a physician as defined 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).

employee's own belief of causal relationship.<sup>18</sup> Thus, the Board finds that appellant failed to meet 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 a traumatic injury causally related to the accepted May 30, 2017 employment incident.

**ORDER**

**IT IS HEREBY ORDERED THAT** the February 23, 2018 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: January 22, 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

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<sup>18</sup> See *B.A.*, Docket No. 17-1130 (issued November 24, 2017); *S.S.*, 59 ECAB 315 (2008); *J.M.*, 58 ECAB 303 (2007); *Donald W. Long*, 41 ECAB 142 (1989).