United States Department of Labor
Employees' Compensation Appeals Board

I.B., Appellant	)	
and	)	**Docket No. 19-0475**
	)	**Issued: July 19, 2019**
DEPARTMENT OF HOMELAND SECURITY, IMMIGRATION & CUSTOMS ENFORCEMENT, Huntsville, TX, Employer	)	

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

Case Submitted on the Record

DECISION AND ORDER

Before:
JANICE B. ASKIN, Judge
ALEC J. KOROMILAS, Alternate Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On December 27, 2018 appellant filed a timely appeal from August 31 and October 1, 2018 merit decisions 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]

[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.*

ISSUE

The issue is whether appellant has met his burden of proof to establish that his bilateral eye conditions were causally related to the accepted July 12, 2018 employment incident.

FACTUAL HISTORY

On July 18, 2018 appellant, then a 48-year-old deportation officer, filed a traumatic injury claim (Form CA-1) alleging that while in the performance of duty on July 12, 2018, he struck a deer while driving his vehicle when the windshield shattered, causing injury to both his eyes. On the reverse side of the claim form, the employing establishment indicated that appellant stopped work on July 12, 2018 and did not return.

In a development letter dated July 24, 2018, OWCP informed appellant of the deficiencies in his claim. It requested that he submit additional factual and medical evidence and provided a questionnaire for him to complete. OWCP afforded appellant 30 days to submit the requested evidence.

An unsigned hospital report dated July 12, 2018 indicated that appellant had been seen by Dr. Joseph D'Addesio, Board-certified in emergency and internal medicine. Diagnoses of conjunctivitis of the right and left eyes were noted.

In reports dated July 19 and 26, 2018, Dr. Muhammad Hanif, Board-certified in critical care medicine and internal medicine, indicated that he examined appellant after his vehicular accident. He noted that appellant's hand took most of the impact from the glass shattering in the accident and that appellant complained of hand pain. Dr. Hanif diagnosed left hand pain and post-traumatic stress disorder (PTSD).

In a report dated August 1, 2018, Dr. Crosby Wallace, an optometrist, diagnosed bilateral punctate keratitis, right eye and left eye conjunctiva and corneal abrasion, and bilateral filamentary keratitis.

In a supplemental statement dated August 7, 2018, appellant indicated that, while performing his daily duties, he was driving his usual route and hit a deer with his vehicle.

By decision dated August 31, 2018, OWCP denied appellant's claim, finding that the evidence of record was insufficient to establish that his diagnosed medical conditions were causally related to the accepted July 12, 2018 employment incident.

On September 18, 2018 appellant requested reconsideration of OWCP's August 31, 2018 decision. He submitted additional evidence along with his request including a July 12, 2018 work-excuse note signed by a registered nurse. Appellant also resubmitted the July 19 and 26, 2018 reports from Dr. Hanif.

By decision dated October 1, 2018, OWCP denied modification of its August 31, 2018 decision.

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 timely filed within the applicable 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 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. A fact of injury determination is based on two elements. 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.[7] 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.

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 compensable employment factors.[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 factors identified by the employee.[10]

[3] *Supra* note 1.

[4] *S.B.*, Docket No. 17-1779 (issued February 7, 2018); *J.P.*, 59 ECAB 178 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

[5] *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] *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] *D.B.*, Docket No. 18-1359 (issued May 14, 2019); *Elaine Pendleton*, 40 ECAB 1143 (1989).

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

[9] *L.C.*, Docket No. 18-1134 (issued January 17, 2019); *see J.J.*, Docket No. 09-0027 (issued February 10, 2009); *Michael S. Mina*, 57 ECAB 379 (2008).

[10] *P.R.*, Docket No. 18-0737 (issued November 2, 2018).

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish that his eye conditions were causally related to the accepted July 12, 2018 employment incident.

Appellant submitted an unsigned report dated July 12, 2018, which diagnosed conjunctivitis of the right and left eyes. However, the Board has held that reports that are unsigned or that bear illegible signatures cannot be considered as probative medical evidence because they lack proper identification.[11]

In his July 19 and 26, 2018 reports, Dr. Hanif diagnosed hand pain and post-traumatic stress disorder. He did not diagnose an eye condition or opine as to the cause of appellant's condition. Dr. Hanif's report is therefore of no probative value as it did not provide medical rationale, based on an accurate history of injury, that appellant had a diagnosed eye condition causally related to the accepted employment incident.[12]

Appellant also submitted an August 1, 2018 report from Dr. Wallace who diagnosed bilateral punctate keratitis, right eye and left eye conjunctiva and corneal abrasion, and bilateral filamentary keratitis. However, Dr. Wallace did not offer an opinion as to the cause of appellant's conditions. Medical evidence that does not offer an opinion regarding the cause of an employee's condition is of no probative value on the issue of causal relationship.[13]

OWCP also received a note from a registered nurse. The Board has held, however, that healthcare providers such as nurses are not considered physicians as defined under FECA and their reports do not constitute competent medical evidence.[14] Therefore, this report is of no probative value.[15]

Appellant has explained that he was involved in a vehicle accident, which caused injuries to his eyes. However, the Board notes that his own lay opinion is not relevant to the medical issue in this case, which can only be resolved through the submission of probative medical evidence

[11] *T.C.*, Docket No. 18-1351 (issued May 9, 2019); *Thomas L. Agee*, 56 ECAB 465 (2005); *Richard F. Williams*, 55 ECAB 343 (2004).

[12] *Supra* note 10.

[13] *Id*.

[14] *See M.M.*, Docket No. 17-1641 (issued February 15, 2018); *K.J.*, Docket No. 16-1805 (issued February 23, 2018); *P.S.*, Docket No. 17-0598 (issued June 23, 2017); *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.

[15] *S.D.*, Docket No. 18-1708 (issued May 8, 2019).

from a physician.[16] Entitlement to FECA benefits may not be based on surmise, conjecture, speculation, or on the employee's own belief of a causal relationship.[17]

As appellant has not submitted rationalized medical evidence establishing that his diagnosed medical condition was causally related to the accepted employment incident, the Board finds that he has not met his burden of proof to establish his claim.

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 that his eye conditions were causally related to the accepted July 12, 2018 employment incident.

ORDER

IT IS HEREBY ORDERED THAT the October 1 and August 31, 2018 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: July 19, 2019
Washington, DC

Janice B. Askin, Judge
Employees' Compensation Appeals Board

Alec J. Koromilas, Alternate Judge
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board

[16] *T.N.*, Docket No. 19-0070 (issued May 10, 2019); *see G.C.*, Docket No. 18-0506 (issued August 15, 2018).

[17] *T.H.*, Docket No. 18-1736 (issued March 13, 2019).