United States Department of Labor
Employees' Compensation Appeals Board

D.R., Appellant	)	
and	)	**Docket No. 18-1408**
	)	**Issued: March 1, 2019**
U.S. POSTAL SERVICE, POST OFFICE, Decatur, IL, 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 July 12, 2018 appellant filed a timely appeal from a June 6, 2018 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 to consider the merits of this case.

ISSUE

The issue is whether appellant has met his burden of proof to establish a right hand and wrist injury and right-sided rib contusion causally related to the accepted April 26, 2018 employment incident.

FACTUAL HISTORY

On April 27, 2018 appellant, then a 60-year-old rural carrier associate, filed a traumatic injury claim (Form CA-1) alleging that, when stepping from his delivery vehicle on April 26, 2018

[1] 5 U.S.C. § 8101 *et seq.*

while in the performance of duty, he lost his footing and fell onto concrete, causing a right wrist fracture and right-sided rib contusion. He stopped work on April 27, 2018.

In support of his claim, appellant submitted two form reports dated April 27, 2018 from Antoniannette Pate, a nurse practitioner, who diagnosed a possible right wrist fracture and right-sided rib contusion. Ms. Pate noted work restrictions.

In a referral form dated April 27, 2018, Ms. Pate and Dr. Keith Fabrique, an attending family practitioner, referred appellant to an orthopedic surgeon to evaluate right hand and wrist pain for a possible fracture.

By development letter dated May 2, 2018, OWCP informed appellant that the evidence submitted was insufficient to establish the claim. It advised him of the type of medical and factual evidence needed, including a detailed description of the April 26, 2018 employment incident, and a narrative report from his physician explaining how and why that event would cause the claimed right hand and wrist condition. OWCP afforded appellant 30 days to submit the necessary evidence.

In response, appellant submitted a chart note dated April 27, 2018 from Ms. Pate. He also submitted a duty status report (Form CA-17) dated May 2, 2018 that does not bear a legible signature.

By decision dated June 6, 2018, OWCP accepted that the April 26, 2018 incident occurred as alleged. It denied the claim, however, finding that causal relationship had not been established.

LEGAL PRECEDENT

An employee seeking benefits under FECA[2] 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.[3] 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.[4]

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

[2] *Supra* note 1.

[3] *Alvin V. Gadd*, 57 ECAB 172 (2005); *Anthony P. Silva*, 55 ECAB 179 (2003).

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

employment incident which is alleged to have occurred.[5] The second component is whether the employment incident caused a personal injury and generally can be established only by medical evidence.[6]

Causal relationship is a medical issue, and the medical evidence required to establish causal relationship is rationalized medical evidence.[7] 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.[8] 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.[9]

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish a right hand and wrist injury and right-sided rib contusion causally related to the accepted April 26, 2018 employment incident.

Dr. Fabrique diagnosed right hand and wrist pain in a report dated April 27, 2018. However, pain is a description of a symptom rather than a clear diagnosis of a medical condition.[10] Dr. Fabrique also diagnosed a possible wrist fracture. However, medical opinions that are speculative or equivocal are of diminished probative value.[11] Therefore, the April 27, 2018 report of Dr. Fabrique is of limited probative value and insufficient to establish a firm medical diagnosis.[12]

Appellant also submitted reports from Ms. Pate, a nurse practitioner. The Board has held that medical reports signed solely by a nurse practitioner are of no probative value as nurse

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

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

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

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

[9] *Dennis M. Mascarenas*, 49 ECAB 215 (1997).

[10] *D.A.*, Docket No. 18-0783 (issued November 8, 2018); *C.B.*, Docket No. 09-2027 (issued May 12, 2010); *Robert Broome*, 55 ECAB 339 (2004) (the Board has consistently held that pain is a symptom, not a compensable medical diagnosis).

[11] *T.O.*, Docket No. 18-0139 (issued May 24, 2018); *Lourdes Harris*, 45 ECAB 545, 547 (1994).

[12] *Id.*

practitioners are not considered physicians as defined under FECA and therefore are not competent to provide a medical opinion.[13]

Appellant also provided a duty status report (Form CA-17) dated May 2, 2018 that does not bear a legible signature. Reports bearing no signature or an illegible signature cannot be identified as having been prepared by a physician and therefore, they do not constitute competent medical opinion evidence.[14]

As appellant has not submitted rationalized medical evidence to establish an injury causally related to the accepted employment incident, he has not met his burden of proof.

On appeal, appellant contends that OWCP should reimburse his medical expenses as the employing establishment sent him to a "company doctor" who referred him to a specialist. As explained above, he is not entitled to wage-loss compensation or medical benefits as the medical evidence of record is insufficient to establish his claim. Also, the record does not contain an authorization for medical treatment (Form CA-16), which would create a contractual obligation to pay for the cost of examination or treatment.[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(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 right hand and wrist injury and right-sided rib contusion causally related to the accepted April 26, 2018 employment incident.

[13] *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).

[14] A medical report may not be considered as probative medical evidence if there is no indication that the person completing the report qualifies as a physician as defined in 5 U.S.C. § 8101(2); *L.F.*, Docket No. 18-0327 (issued August 17, 2018); *Merton J. Sills*, 39 ECAB 572 (1988).

[15] A properly completed CA-16 form authorization may constitute a contract for payment of medical expenses to a medical facility or physician, when properly executed. The form creates a contractual obligation, which does not involve the employee directly, to pay for the cost of the examination or treatment regardless of the action taken on the claim. 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); *P.R.*, Docket No. 18-0737 (issued November 2, 2018); *N.M.*, Docket No. 17-1655 (issued January 24, 2018), *Tracy P. Spillane*, 54 ECAB 608 (2003).

ORDER

IT IS HEREBY ORDERED THAT the June 6, 2018 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: March 1, 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