United States Department of Labor
Employees' Compensation Appeals Board

B.M., Appellant	)	
and	)	**Docket No. 19-1105**
	)	**Issued: November 1, 2019**
U.S. POSTAL SERVICE, FORTSON POST OFFICE, Fortson, GA, 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 April 16, 2019 appellant filed a timely appeal from an October 19, 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 over the merits of this case.

ISSUE

The issue is whether appellant has met his burden of proof to establish that he sustained a hernia causally related to the accepted March 12, 2018 employment incident.

FACTUAL HISTORY

On March 15, 2018 appellant, then a 52-year-old rural carrier, filed a traumatic injury claim (Form CA-1) alleging on March 12, 2018 that he sustained a hernia when he lifted and carried a package containing a set of weights from his mail truck to the customer's door while in the performance of duty. He indicated that he continued to work, but could barely walk after his route.

[1] 5 U.S.C. § 8101 *et seq.*

On the reverse side of the form, the postmaster noted that the injury occurred in the performance of duty.

On March 16, 2018 the employing establishment provided appellant with an authorization for examination and/or treatment (Form CA-16) authorizing medical treatment for his alleged March 12, 2018 employment injury.[2]

In a March 22, 2018 development letter, OWCP advised appellant of the deficiencies of his claim. It requested additional factual and medical evidence from him and provided a questionnaire for his completion. OWCP afforded appellant 30 days to respond.

On April 5, 2018 Terri Jordan, a physician assistant, examined appellant due to a right lower quadrant bulge which began on March 11, 2018. She diagnosed femoral hernia. On April 7, 2018 Ms. Jordan completed a duty status report (Form CA-17) and diagnosed right inguinal hernia.

In an April 13, 2018 response to OWCP's questionnaire, appellant alleged that his injury occurred on March 12, 2018 when he delivered a box of weights while in the performance of duty. He provided a March 17, 2018 note from Dr. Hafsa Bhatti, a family practitioner, diagnosing recurrent unilateral inguinal hernia.

By decision dated April 25, 2018, OWCP accepted that the March 12, 2018 employment incident occurred as alleged and that there was a diagnosed condition. However, it denied appellant's traumatic injury claim finding that the medical evidence of record was insufficient to establish causal relationship between his accepted March 12, 2018 employment incident and his diagnosed condition of right-side unilateral inguinal hernia.

On May 11, 2018 appellant requested a review of the written record from an OWCP hearing representative. He provided additional treatment notes from Ms. Jordan dated April 12, 26, and 27, 2018.

In a note dated May 8, 2018, Dr. Joseph Kaplan, Board-certified in emergency medicine, diagnosed work-related femoral hernia. He noted that appellant's symptoms began on March 11, 2018 and that his findings on examination and diagnosis were most likely consistent with the injury reported by appellant. Dr. Kaplan examined appellant on August 15, 2018 and repeated his diagnosis of unilateral femoral hernia.

By decision dated October 19, 2018, an OWCP hearing representative affirmed the April 25, 2018 decision finding that the medical evidence of record was insufficient to establish appellant's claim as it did not contain rationalized medical opinion evidence explaining how his diagnosed condition of inguinal hernia was caused or aggravated by the accepted March 12, 2018 employment incident.

LEGAL PRECEDENT

An employee seeking benefits under FECA 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

[2] In support of his claim, appellant provided an unsigned note dated March 17, 2018 diagnosing a right-side inguinal hernia.

United States within the meaning of FECA, that the claim was timely filed within the applicable time limitation period of FECA,[3] 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.[4] 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.[5]

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it first must be determined whether fact of injury has been established. There are two components involved in establishing fact of injury. 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. The second component is whether the employment incident caused a personal injury and can be established only by medical evidence.[6]

The evidence required to establish causal relationship is rationalized medical opinion evidence, based upon complete factual and medical background, showing a causal relationship between the claimed condition and the identified factors.[7] The belief of the claimant that a condition was caused or aggravated by the employment is insufficient to establish a causal relationship.[8]

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

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish that he sustained a hernia causally related to the accepted March 12, 2018 employment incident.

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

[4] *J.M.*, Docket No. 17-0284 (issued February 7, 2018); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

[5] *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).

[6] *Id.*

[7] *R.R.*, Docket No. 18-1093 (issued December 18, 2018); *Lourdes Harris*, 45 ECAB 545 (1994); *see Walter D. Morehead*, 31 ECAB 188 (1979).

[8] *M.J.*, Docket No. 17-0725 (issued May 17, 2018); *see also Lee R. Haywood*, 48 ECAB 145 (1996); *Kathryn Haggerty*, 45 ECAB 383, 389 (1994).

[9] *A.W.*, Docket No. 19-0327 (issued July 19, 2019); *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 45 ECAB 345 (1989).

In support of his claim, appellant submitted a May 8, 2018 report from Dr. Kaplan diagnosing work-related femoral hernia. He noted that appellant's symptoms began on March 11, 2018 and that the findings on examination and diagnosis were most likely consistent with the injury reported by appellant. Dr. Kaplan opined that the accepted employment incident likely caused appellant's hernia. The Board finds that his opinion was speculative in nature and he did not sufficiently explain how the accepted incident caused or aggravated the diagnosed condition.[10] Without explaining how, physiologically, the movements involved in the employment incident caused or contributed to a diagnosed condition, Dr. Kaplan's opinion is of limited probative value and insufficient to establish causal relationship.[11]

On March 17, 2018 Dr. Bhatti diagnosed recurrent unilateral inguinal hernia. While she provided a firm medical diagnosis, she offered no opinion as to the cause of the diagnosed condition. The Board has held that 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.[12] Thus, the Board finds this evidence insufficient to establish appellant's claim.

Appellant also submitted treatment notes from a physician assistant.[13] The Board has held, however, that a physician assistant is not considered a physician as defined under FECA.[14] Reports from a physician assistant will only be considered medical evidence if countersigned by a qualified physician.[15] Thus, as there is no countersignature by a qualified physician, these notes do not constitute competent medical evidence and have no probative value.[16] As such, this evidence is insufficient to meet appellant's burden of proof.

[10] *S.R.*, Docket No. 18-1295 (issued March 20, 2019); *G.M.*, Docket No. 18-0989 (issued January 3, 2019).

[11] *S.J.*, Docket No. 19-0696 (issued August 23, 2019); *M.C*., Docket No. 18-0951 (issued January 7, 2019).

[12] *S.G.*, Docket No. 18-1373 (issued February 12, 2019); *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

[13] Appellant also submitted an unsigned note dated March 17, 2018. This report does not constitute probative medical evidence. The Board has held that a 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) and reports lacking proper identification do not constitute probative medical evidence. *C.B.*, Docket No. 09-2027 (issued May 12, 2010).

[14] The term physician includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, and osteopathic practitioners within the scope of their practice as defined by state law. *See* 5 U.S.C. § 8102(2); *see M.H.*, Docket No. 18-1737 (issued March 13, 2019); *M.M.*, Docket No. 16-1617 (issued January 24, 2017) (lay individuals such as physician assistants and physical therapists are not competent to render a medical opinion under FECA). *See also Gloria J. McPherson*, 51 ECAB 441 (2000); *Charley V.B. Harley*, 2 ECAB 208, 211 (1949) (a medical issue such as causal relationship can only be resolved through the submission of probative medical evidence from a physician).

[15] *J.P.*, Docket No. 19-0197 (issued June 21, 2019); *D.B.*, Docket No. 18-1359 (issued May 14, 2019); Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3a(1) (January 2013).

[16] *D.F*., Docket No. 19-0108 (issued April 16, 2019); *T.H.*, Docket No. 18-1736 (issued March 13, 2019).

As the record lacks rationalized medical evidence establishing causal relationship between the March 12, 2018 employment incident and appellant's hernia, he has not met his burden of proof.[17]

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 he sustained a hernia causally related to the accepted March 12, 2018 employment incident.

ORDER

IT IS HEREBY ORDERED THAT the October 19, 2018 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: November 1, 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

[17] 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. 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).