

**United States Department of Labor
Employees' Compensation Appeals Board**

V.G., Appellant)	
)	
and)	Docket No. 19-0849
)	Issued: October 3, 2019
U.S. POSTAL SERVICE, POST OFFICE,)	
Philadelphia, PA, 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
JANICE B. ASKIN, Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On March 11, 2019 appellant filed a timely appeal from a January 31, 2019 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act¹ (FECA) 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 her burden of proof to establish a diagnosed medical condition causally related to the accepted February 3, 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 February 4, 2018 appellant, then a 49-year-old mail handler, filed a traumatic injury claim (Form CA-1) alleging that on February 3, 2018 she strained her left lower leg while in the performance of duty when she was pushing a full bin of mail onto a trailer and felt a pop in her left calf.

An unsigned emergency room hospital record dated February 3, 2018 indicated that an x-ray of appellant's left ankle revealed no fracture or dislocation. The report listed a diagnosis of gastrocnemius strain.

Appellant submitted a series of physical therapy reports dated March 5, 12, and 28 and April 4 and 11, 2018. The reports listed a diagnosis of strain of other muscle and tendon of the left lower leg.

In a development letter dated December 13, 2018, OWCP related that when appellant's claim was first received it appeared to be a minor injury that resulted in minimal or no lost time from work and was therefore administratively approved for payment of a limited amount of medical expenses. It indicated that her claim had been reopened for consideration. OWCP informed appellant of the deficiencies of her claim and advised her that additional factual and medical evidence was needed to establish her claim. It provided a questionnaire for her completion and afforded her 30 days to submit the necessary evidence. No further evidence was received.

By decision dated January 31, 2019, OWCP denied appellant's claim finding that the evidence of record lacked medical evidence containing a medical diagnosis in connection with the accepted February 3, 2018 employment incident. It concluded, therefore, that the requirements had not been met to establish an injury as defined under FECA.

LEGAL PRECEDENT

An employee seeking benefits under FECA³ 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,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

³ *Supra* note 1.

⁴ *T.J.*, Docket No. 18-1500 (issued May 1, 2019); *S.B.*, Docket No. 17-1779 (issued February 7, 2018); *J.P.*, 59 ECAB 178 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

⁵ *T.J.*, *id.*; *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 *T.J.*, *supra* note 4; *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).

To determine if an employee has sustained a traumatic injury in the performance of duty, OWCP begins with an analysis of whether fact of injury has been established. Fact of injury consists of two components that must be considered in conjunction with one another. The first component is whether the employee actually experienced the employment incident that allegedly occurred.⁷ The second component is whether the employment incident caused a personal injury.⁸

Causal relationship is a medical issue, and the medical evidence required to establish causal relationship is rationalized medical evidence.⁹ 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 medical condition and the specific employment incident.¹⁰

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish a diagnosed medical condition causally related to the accepted February 3, 2018 employment incident.

In support of her claim appellant submitted an unsigned hospital report dated February 3, 2018. Regarding unsigned reports, the Board has explained that lacking a signature, it cannot be determined whether a physician was the author of the report. Therefore, the Board has held that a report that is unsigned or bears an illegible signature lacks proper identification and cannot be considered probative medical evidence.¹¹ Thus, this report is of no probative value and is insufficient to establish appellant's claim.

In addition, appellant submitted a series of physical therapy reports. However, physical therapists are not considered physicians as defined under FECA and thus their reports do not constitute competent medical evidence.¹²

The Board finds that appellant has not submitted rationalized, probative medical evidence sufficient to establish a diagnosed medical condition causally related to her February 3, 2018 employment incident.¹³ Appellant, therefore, has not met her burden of proof.

⁷ *M.H.*, Docket No. 18-1737 (issued March 13, 2019); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁸ *M.H.*, *id.*; *John J. Carlone*, 41 ECAB 354 (1989).

⁹ *P.D.*, Docket No. 19-0600 (issued August 12, 2019).

¹⁰ *S.S.*, Docket No. 18-1488 (issued March 11, 2019).

¹¹ *L.D.*, Docket No. 19-0039 (issued May 7, 2019); *see L.M.*, Docket No. 18-0473 (issued October 22, 2018).

¹² 5 U.S.C. § 8101(2); *L.D.*, *id.*; *J.L.*, 17-1207 (issued December 8, 2017); *David P. Sawchuck*, 57 ECAB 316, 322 n.11 (2006).

¹³ *T.J.*, *supra* note 4; *see D.S.*, Docket No. 18-0061 (issued May 29, 2018).

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 diagnosed medical condition causally related to the accepted February 3, 2018 employment incident.

ORDER

IT IS HEREBY ORDERED THAT the January 31, 2019 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: October 3, 2019
Washington, DC

Christopher J. Godfrey, Chief Judge
Employees' Compensation Appeals Board

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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