

FACTUAL HISTORY

On November 3, 2018 appellant, then a 61-year-old rural carrier, filed a traumatic injury claim (Form CA-1) alleging that, on November 2, 2018, he injured his lower back when he lifted a parcel from the floor while in the performance of duty. On the reverse side of the claim form, the employing establishment indicated that he stopped work on the date of the alleged injury.

In a development letter dated November 15, 2018, OWCP informed appellant of the deficiencies of his claim. It advised him of the type of factual and medical evidence needed, and provided a questionnaire for his completion. OWCP afforded appellant 30 days to submit the necessary evidence.

In a computerized tomography (CT) scan report dated November 2, 2018, Dr. Yuyang Zhang, a Board-certified diagnostic radiologist, reviewed findings related to appellant's lumbar spine. He noted bridging osteophyte of the bilateral superior portion of the SI joints, spinal stenosis at multiple levels, and mild-to-moderate narrowing of the right neuroforamina of L1-2.

In a report dated November 2, 2018, Dr. Michael Giordano, Board-certified in emergency medicine, diagnosed acute back pain and lumbar muscle strain.

In a supplemental statement dated December 9, 2018, appellant explained that, on November 2, 2018, he was reorienting parcels while on his delivery route when he felt a sharp pain in his bilateral lower extremities. He noted that he was unable to straighten his back or stand up straight. In an attached report dated November 7, 2018, Dr. Michael Wong, a Board-certified family practitioner, diagnosed lumbar radiculitis and lumbago. In a subsequent report also attached to his personal statement dated December 5, 2018, Dr. Wong diagnosed unspecified thoracic, thoracolumbar, and lumbosacral intervertebral disc disorder.

OWCP also received a duty status report (Form CA-17) dated December 5, 2018 with an illegible signature, which diagnosed herniated lumbar disc. This form noted an injury date of November 2, 2018 and indicated that an injury occurred when appellant was "trying to move packages."

By decision dated December 19, 2018, OWCP denied appellant's claim finding that he had not submitted medical evidence containing a medical diagnosis causally related to the accepted November 2, 2018 employment incident. It concluded, therefore, that the requirements had not been met to establish an injury as defined by 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

³ *Supra* note 1.

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 fact of injury has been established.⁷ 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.⁸ Second, the employee must submit sufficient evidence to establish that the employment incident caused a personal injury.⁹

Causal relationship is a medical issue and the medical evidence required to establish causal relationship is rationalized medical opinion evidence.¹⁰ 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 accepted employment incident.¹¹ 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 incident identified by the employee.¹²

ANALYSIS

The Board finds that appellant has established diagnosed lumbar conditions. The Board further finds, however, that he has not met his burden of proof to establish that his diagnosed lumbar conditions were causally related to the accepted November 2, 2018 employment incident.

⁴ *C.B.*, Docket No. 18-0071 (issued May 13, 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 *R.C.*, Docket No. 19-0376 (issued July 15, 2019); *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 *C.B.*, *supra* note 4; *K.M.*, Docket No. 15-1660 (issued September 16, 2016); *Delores C. Ellyett*, 41 ECAB 992 (1990).

⁷ *D.B.*, Docket No. 18-1348 (issued January 4, 2019); *T.H.*, 59 ECAB 388, 393-94 (2008).

⁸ *C.B.*, *supra* note 4; *D.S.*, Docket No. 17-1422 (issued November 9, 2017); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁹ *R.C.*, *supra* note 5; *B.M.*, Docket No. 17-0796 (issued July 5, 2018); *John J. Carlone*, 41 ECAB 354 (1989).

¹⁰ *C.B.*, *supra* note 4; *Y.J.*, Docket No. 18-1167 (issued October 7, 2008); *A.D.*, 58 ECAB 149, 155-156 (2006); *D'Wayne Avila*, 57 ECAB 642, 649 (2006).

¹¹ *R.C.*, *supra* note 5; *J.J.*, Docket No. 09-0027 (issued February 10, 2009); *Michael S. Mina*, 57 ECAB 379, 384 (2006).

¹² *C.B.*, *supra* note 4; *I.J.*, 59 ECAB 408, 415 (2008); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

In support of his claim, appellant submitted a report dated November 2, 2018 from Dr. Giordano who diagnosed lumbar muscle strain, and two reports dated November 8 and December 5, 2018 from Dr. Wong who diagnosed lumbar radiculitis and unspecified thoracic, thoracolumbar, and lumbosacral intervertebral disc disorder. These reports establish diagnoses regarding appellant's lumbar condition. However, neither physician opined as to the cause of appellant's conditions. 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.¹³ Thus, both Dr. Giordano's and Dr. Wong's reports are insufficient to establish appellant's claim.

Appellant also submitted diagnostic reports in the form of CT scans in support of his claim. The Board has explained that diagnostic studies lack probative value as they do not address whether the employment incident caused any of the diagnosed conditions.¹⁴ These reports are therefore also insufficient to establish appellant's claim.

OWCP also received a December 5, 2018 Form CA-17 with an illegible signature. The Board has held that a report that bears an illegible signature cannot be considered probative medical evidence because it lacks proper identification.¹⁵ Thus, this report has no probative value.

As previously noted, to meet his burden of proof appellant must submit a medical report which relates a complete factual and medical background of the employee, and which explains the nature of the relationship between the diagnosed condition and the specific employment incident identified by the employee, with supporting medical rationale.¹⁶

As appellant has not submitted sufficiently rationalized medical evidence to support his claim that his diagnosed lumbar conditions were causally related to the accepted employment incident of November 2, 2018, the Board finds that he has not met his burden of proof to establish his claim.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.

¹³ *R.P.*, Docket No. 19-0271 (issued July 24, 2019); *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

¹⁴ *C.B.*, *supra* note 4; *see J.S.*, Docket No. 17-1039 (issued October 6, 2017).

¹⁵ *A.W.*, Docket No. 19-0327 (issued July 19, 2019).

¹⁶ *Supra* note 12.

¹⁷ *C.B.*, *supra* note 4.

CONCLUSION

The Board finds that appellant has established diagnosed lumbar conditions. The Board further finds, however, that he has not met his burden of proof to establish that his diagnosed lumbar conditions were casually related to the accepted November 2, 2018 employment incident.

ORDER

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

Issued: September 13, 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