United States Department of Labor
Employees' Compensation Appeals Board

D.M., Appellant	)	
and	)	**Docket No. 20-0386**
	)	**Issued: August 10, 2020**
U.S. POSTAL SERVICE, WINTERWOOD POST OFFICE, Las Vegas, NV, Employer	)	

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

Case Submitted on the Record

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Chief Judge
JANICE B. ASKIN, Judge
PATRICIA H. FITZGERALD, Alternate Judge

JURISDICTION

On December 6, 2019 appellant filed a timely appeal from a September 19, 2019 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.[2]

ISSUE

The issue is whether appellant has met her burden of proof to establish a diagnosed medical condition causally related to the accepted July 27, 2019 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 July 31, 2019 appellant, then a 33-year-old mail carrier, filed a traumatic injury claim (Form CA-1) alleging that on July 27, 2019 she sustained emotional trauma when she found a decapitated body on her park and loop route while in the performance of duty. She stopped work on July 30, 2019.

In an August 1, 2019 work status note, a physician assistant noted that appellant was seen for post-traumatic stress disorder (PTSD). He listed diagnoses of generalized anxiety disorder and PTSD. In an accompanying report of initial treatment, the physician assistant diagnosed anxiety and indicated that appellant was referred for mental health treatment.

In an August 1, 2019 authorization for examination and/or treatment (Form CA-16), the employing establishing authorized appellant to seek medical care for the alleged incident at an Urgent Care clinic.[3] In the corresponding attending physicians report (Part B of the Form CA-16), dated August 1, 2019, a physician assistant reported that appellant came across a decapitated body while delivering packages at work. He diagnosed PTSD and checked a box marked "Yes" to indicate that the diagnosed condition was caused or aggravated by the described employment activity. The physician assistant opined that appellant could resume regular work and recommended mental health treatment.

In an August 16, 2019 development letter, OWCP informed appellant that the evidence of record was insufficient to establish her claim. It advised her of the type of factual and medical evidence needed and provided a questionnaire for her completion. In a separate development letter of even date, OWCP requested that the employing establishment provide additional information regarding appellant's claim from a knowledgeable supervisor. It afforded both parties 30 days to submit the necessary evidence. No additional evidence was received.

By decision dated September 19, 2019, OWCP denied appellant's traumatic injury claim, finding that the medical evidence of record was insufficient to establish a medical diagnosis in connection with the accepted July 27, 2019 employment incident.

LEGAL PRECEDENT

An employee seeking benefits under FECA[4] 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,[5] 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

[3] Appellant also submitted a blank duty status report (Form CA-17) along with her Form CA-16 report.

[4] *Supra* note 1.

[5] *S.S.*, Docket No. 19-1815 (issued June 26, 2020); *S.B.*, Docket No. 17-1779 (issued February 7, 2018); *Joe D. Cameron*, 41 ECAB 153 (1989).

related to the employment injury.[6] 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.[7]

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.[8] The second component is whether the employment incident caused a personal injury.[9]

Causal relationship is a medical question that requires rationalized medical opinion evidence to resolve the issue.[10] 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 incident identified by the claimant.[11]

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish a diagnosed medical condition causally related to the accepted July 27, 2019 employment incident.

In support of her claim, appellant submitted a work status note, report of initial treatment, and an attending physician's report (Part B of a Form CA-16), all dated August 1, 2019, and signed by a physician assistant. The Board has held, however, that medical reports signed solely by a physician assistant are of no probative value as physician assistants are not considered physicians as defined under FECA.[12] As such, this evidence is of no probative value and is insufficient to establish appellant's claim.

On appeal appellant submitted new medical evidence. However, as noted, the Board's review of a case is limited to the evidence in the case record that was before OWCP at the time of

[6] *M.H.*, Docket No. 19-0930 (issued June 17, 2020); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

[7] *S.A.*, Docket No. 19-1221 (issued June 9, 2020); *L.M.*, Docket No. 13-1402 (issued February 7, 2014); *Delores C. Ellyett*, 41 ECAB 992 (1990).

[8] *R.K.*, Docket No. 19-0904 (issued April 10, 2020); *Elaine Pendleton*, 40 ECAB 1143 (1989).

[9] *Y.D.*, Docket No. 19-1200 (issued April 6, 2020); *John J. Carlone*, 41 ECAB 354 (1989).

[10] *L.F.*, Docket No. 19-1905 (issued April 10, 2020); *Jacqueline M. Nixon-Steward*, 52 ECAB 140 (2000).

[11] *A.S.*, Docket No. 19-1955 (issued April 9, 2020); *Leslie C. Moore*, 52 ECAB 132 (2000).

[12] Section 8101(2) of FECA provides that physician "includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, and osteopathic practitioners within the scope of their practice as defined by State law." 5 U.S.C. § 8101(2). *See also 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); *M.W.*, Docket No. 19-1667 (issued June 29, 2020) (physician assistant).

its final decision. Evidence not before OWCP will not be considered by the Board for the first time on appeal. Accordingly, the Board is precluded from reviewing this additional evidence for the first time on appeal.[13]

As appellant has not submitted rationalized medical evidence establishing a diagnosed medical condition causally related to the accepted July 27, 2019 employment incident, the Board finds that she has not met her burden of proof.[14]

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 July 27, 2019 employment incident.

ORDER

IT IS HEREBY ORDERED THAT the September 19, 2019 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: August 10, 2020
Washington, DC

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Alternate Judge
Employees' Compensation Appeals Board

[13] *Supra*

[14] The Board notes that the employing establishment issued a Form CA-16. A completed Form CA-16 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. *See* 20 C.F.R. § 10.300(c); *J.G.*, Docket No. 17-1062 (issued February 13, 2018); *Tracy P. Spillane*, 54 ECAB 608 (2003).