United States Department of Labor
Employees' Compensation Appeals Board

J.H., Appellant	)	
and	)	**Docket No. 18-1010**
	)	**Issued: February 10, 2020**
U.S. POSTAL SERVICE, POST OFFICE, Ponchatoula, LA, Employer	)	

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

Case Submitted on the Record

DECISION AND ORDER

Before:
PATRICIA H. FITZGERALD, Deputy Chief Judge
ALEC J. KOROMILAS, Alternate Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On April 17, 2018 appellant filed a timely appeal from a March 2, 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.[2]

ISSUE

The issue is whether appellant has met her burden of proof to establish an injury causally related to the accepted January 20, 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 January 26, 2018 appellant, then a 36-year-old city carrier assistant, filed a traumatic injury claim (Form CA-1), alleging that she sustained an injury on January 20, 2018 as a result of a motor vehicle accident while in the performance of duty. She explained that a civilian struck her long-life vehicle (LLV) on the left-rear fender, flipping it on its right side. Appellant was trapped inside the LLV for more than 50 minutes. She was eight weeks' pregnant at the time of injury and alleged that she sustained "[a]bdominal pain and pelvic pain/pregnancy." Appellant stopped work on January 20, 2018.

In a January 20, 2018 note, Dr. Brandon C. Cambre, a Board-certified emergency medicine physician, noted that appellant was seen and treated in the emergency department that day. He further noted that she was able to return to work after being cleared by her follow-up physician.

The employing establishment provided appellant an authorization for medical examination and/or treatment (Form CA-16). In an attached January 24, 2018 attending physician's report, Part B of the Form CA-16, Dr. Kevin Plaisance, a Board-certified family practitioner, diagnosed abdominal and pelvic pain and pregnancy and checked a box marked "Yes" indicating his opinion that these conditions were caused or aggravated by an employment activity, specifically a "vehicle accident."

In a January 30, 2018 development letter, OWCP informed appellant that she had not submitted sufficient medical evidence to support her claim. It advised her of the type of medical evidence needed and afforded her 30 days to submit the necessary evidence.

A January 20, 2018 emergency department after-visit summary noted that appellant was seen by Dr. Cambre following a motor vehicle accident. The reported diagnosis was "[m]otor vehicle collision, initial encounter." Dr. Cambre advised appellant to rest and avoid exertion or heavy lifting, and to follow up with her obstetrician/gynecologist.

In a duty status report (Form CA-17) dated January 24, 2018, Dr. Plaisance continued to diagnose abdominal pain and pelvic pain and indicated that appellant was pregnant. He further indicated that appellant was involved in a motor vehicle accident and advised that she was not capable of returning to work.

On February 22, 2018 Dr. Plaisance released appellant to full-duty work effective that date.

By decision dated March 2, 2018, OWCP accepted that the January 20, 2018 employment incident occurred as alleged, but denied appellant's claim finding that she had not submitted evidence containing a medical diagnosis in connection with the accepted employment incident. Thus, it concluded that requirements had not been met to establish an injury as defined by FECA.

LEGAL PRECEDENT

An employee seeking benefits under FECA[3] 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 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 if an employee sustained a traumatic injury in the performance of duty, OWCP begins with an analysis of whether fact of injury has been established.[7] 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] An employee may establish that an injury occurred in the performance of duty, as alleged, but fail to establish that the disability or specific condition for which compensation is being claimed is causally related to the injury.[10]

Causal relationship is a medical question that requires rationalized medical opinion evidence to resolve the issue.[11] A physician's opinion on whether there is causal relationship between the diagnosed condition and the implicated employment factor(s) must be based on a complete factual and medical background.[12] Additionally, the physician's opinion must be expressed in terms of a reasonable degree of medical certainty, and must be supported by medical

[3] *Supra* note 1.

[4] *J.P.*, Docket No. 19-0129 (issued April 26, 2019); *S.B.*, Docket No. 17-1779 (issued February 7, 2018); *Joe D. Cameron*, 41 ECAB 153 (1989).

[5] *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] *R.R.*, Docket No. 19-0048 (issued April 25, 2019); *L.M.*, Docket No. 13-1402 (issued February 7, 2014); *Delores C. Ellyett*, 41 ECAB 992 (1990).

[7] *E.M.*, Docket No. 18-1599 (issued March 7, 2019); *T.H.*, 59 ECAB 388, 393-94 (2008).

[8] *L.T.*, Docket No. 18-1603 (issued February 21, 2019); *Elaine Pendleton*, 40 ECAB 1143 (1989).

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

[10] *J.P.*, *supra* note 4; *L.T.*, *supra* note 8; *Shirley A. Temple*, 48 ECAB 404, 407 (1997).

[11] *E.M.*, *supra* note 7; *Robert G. Morris*, 48 ECAB 238 (1996).

[12] *M.V.*, Docket No. 18-0884 (issued December 28, 2018).

rationale, explaining the nature of the relationship between the diagnosed condition and appellant's specific employment factor(s).[13]

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish an injury causally related to the accepted January 20, 2018 employment incident.

In a January 20, 2018 after visit summary, Dr. Cambre diagnosed "[m]otor vehicle collision, initial encounter." He did not provide any details of the January 20, 2018 motor vehicle accident or a specific diagnosis, nor did he explain the mechanism of injury or address the issue of causal relationship. Due to these deficiencies, Dr. Cambre's opinion is insufficient to establish that appellant sustained an injury causally related to the January 20, 2018 motor vehicle accident.[14]

In his January 24, 2018 attending physician's report, Dr. Plaisance diagnosed abdominal and pelvic pain and checked a box marked "Yes" indicating his opinion that the condition was caused or aggravated by an employment activity, specifically a "vehicle accident." He indicated that appellant was pregnant and had been involved in a vehicle accident. In his January 24, 2018 Form CA-17, Dr. Plaisance similarly reported abdominal and pelvic pain and pregnancy, and advised that she was not capable of returning to work. He subsequently released appellant to full duty on February 22, 2018. The Board finds that abdominal and pelvic pain is a description of a symptom rather than a clear diagnosis of the medical condition.[15] Consequently, the reports from Dr. Plaisance are insufficient to establish a medical diagnosis in connection with the injury.

Accordingly, the Board finds that appellant has not met her burden of proof to establish her claim because she has not submitted competent medical evidence addressing how the January 20, 2018 work incident either caused or contributed to an injury.

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.[16]

CONCLUSION

The Board finds that appellant has not met her burden of proof to establish an injury causally related to the accepted January 20, 2018 employment incident.

[13] *Id.*; *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

[14] *See M.M.*, Docket No. 09-1615 (issued April 12, 2010).

[15] *See P.S.*, Docket No. 12-1601 (issued January 2, 2013); *C.F.*, Docket No. 08-1102 (issued October 10, 2008).

[16] The Board notes that the employing establishment issued a Form CA-16. When properly executed, a completed Form CA-16 may constitute a contract for payment of medical expenses to a medical facility or physician. 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); *M.C.*, Docket No. 18-0951, n.20 (issued January 7, 2019); *Tracy P. Spillane*, 54 ECAB 608 (2003).

ORDER

IT IS HEREBY ORDERED THAT the March 2, 2018 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: February 10, 2020
Washington, DC

Patricia H. Fitzgerald, Deputy Chief Judge
Employees' Compensation Appeals Board

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

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