

retrieve a package for a customer and when she bent down to lift the package she experienced a sharp pain in her right leg and light headedness. On the reverse side of the claim form appellant's supervisor indicated that he was unsure if appellant's claimed injury was related to a prior car accident. Appellant stopped work the same day.

In a January 23, 2019 witness statement from L.O., appellant's coworker, explained that she was working with appellant on November 28, 2018. She noted that appellant was assisting a customer with a pick up and when she went into the back room to assist her, she noticed appellant leaning on the shelf in pain. L.O. notified her station manager and an ambulance was called for appellant.

Appellant also submitted physical therapy notes dated January 25 and 28, 2019 from Kimberly Pierce, Catherine Furman, and Andrew Stamatelos, physical therapists. The notes provided that appellant was diagnosed with T10 paraplegia due to a spinal cord infarction after experiencing pain at work. It was also noted that her cervical disc disease and back pain was possibly related to a motor vehicle accident.

In a development letter dated February 1, 2019, OWCP advised appellant of the deficiencies of her claim and instructed her as to the factual and medical evidence necessary to establish her claim. It also noted that no firm diagnosis of a work-related condition had been provided by a physician. OWCP provided a questionnaire for her completion and afforded her 30 days to submit the necessary evidence.

In response, appellant provided an undated attending physician's report (Form CA-20) from Dr. Christopher Formal, Board-certified in physical medicine and rehabilitation. Dr. Formal diagnosed incomplete paraplegia due to a spinal cord infarction resulting from her November 28, 2018 injury. He checked a box marked "No" indicating that appellant's condition was not caused or aggravated by her federal employment.

In response to OWCP's questionnaire, appellant provided a February 9, 2019 statement explaining that, as she bent forward to retrieve a package weighing approximately 10 pounds, she felt a sharp pain in her right leg and light headedness. By the time the ambulance arrived, she felt pain in her lower back and abdomen and could not stand to get into a wheelchair. Appellant also provided that she had previous pain in her lower back resulting from a March 2018 motor vehicle accident.

By decision dated March 5, 2019, OWCP denied appellant's claim. It found that the medical evidence of record was insufficient to establish causal relationship between appellant's diagnosed medical condition and the accepted work incident. OWCP noted that Dr. Formal's Form CA-20 indicated that he did not believe her incomplete paraplegia was caused or aggravated by an employment activity.

OWCP continued to receive evidence. In a December 7, 2019 medical report, Dr. Formal noted appellant's diagnosis of nontraumatic paraplegia beginning November 30, 2018 while she was at work. He provided that she underwent steroid treatment in order to treat her condition and that she still lacked strength in her lower extremities. Dr. Formal also made note of appellant's

medical history, including cervical disc disease and back pain possibly related to a motor vehicle accident.

On a January 11, 2019 Family and Medical Leave Act Certification form, Dr. Formal reported that appellant's condition began approximately on November 29, 2018 and estimated that she would be incapacitated until November 29, 2019. He explained that appellant's condition required her to use a manual wheelchair for all of her mobility and that she would require therapy for her condition five days per week.

In a March 14, 2019 letter, Dr. Formal provided a history of his treatment of her paraplegia as it related to the November 28, 2018 employment incident. He noted that appellant experienced pain in her right groin and across her mid-section and back after picking up a package while working.

On March 15, 2019 appellant requested a review of the written record by a representative of OWCP's Branch of Hearings and Review.

In an April 30, 2019 letter, Dr. Formal explained that appellant sustained a spinal cord insult with partial paraplegia while performing her work activities. He provided that it was "possible" that her work activities led to her condition.

By decision dated June 12, 2019, an OWCP hearing representative affirmed OWCP's March 5, 2019 decision.

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 United States within the meaning of FECA, that the claim was timely filed within the applicable time limitation period of FECA,² 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.³ 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.⁴

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.⁵ First, the employee must submit sufficient evidence to establish that she actually experienced the

² *S.B.*, Docket No. 17-1779 (issued February 7, 2018); *J.P.*, 59 ECAB 178 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

³ *J.M.*, Docket No. 17-0284 (issued February 7, 2018); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

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).

⁵ *D.B.*, Docket No. 18-1348 (issued January 4, 2019); *T.H.*, 59 ECAB 388, 393-94 (2008).

employment incident at the time, place, and in the manner alleged.⁶ Second, the employee must submit sufficient evidence to establish that the employment incident caused a personal injury.⁷

To establish causal relationship between the condition, as well as any attendant disability claimed and the employment event or incident, the employee must submit rationalized medical opinion evidence sufficient to establish such causal relationship.⁸ 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

In any case where a preexisting condition involving the same part of the body is present and the issue of causal relationship therefore involves aggravation, acceleration, or precipitation, the physician must provide a rationalized medical opinion that differentiates between the effects of the work-related injury or disease and the preexisting condition.¹⁰

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish a spinal condition causally related to the accepted November 28, 2018 employment incident.

In his undated Form CA-20, Dr. Formal noted appellant's diagnosis of incomplete paraplegia due to a spinal cord infarction; however, he checked a box marked "no," indicating that he did not believe that appellant's condition was caused or aggravated by her federal employment. As Dr. Formal's opinion negates causal relationship, his Form CA-20 is insufficient to meet appellant's burden of proof.¹¹

In an April 30, 2019 letter, Dr. Formal provided that it was "possible" that appellant's partial paraplegia was caused by her work activities. The Board has held that medical opinions which are speculative or equivocal in nature are of diminished probative value.¹² The physician's opinion must be expressed in terms of a reasonable degree of medical certainty and must be supported by medical rationale, explaining the nature of the relationship between the diagnosed

⁶ *D.S.*, Docket No. 17-1422 (issued November 9, 2017); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁷ *B.M.*, Docket No. 17-0796 (issued July 5, 2018); *John J. Carlone*, 41 ECAB 354 (1989).

⁸ *K.V.*, Docket No. 18-0723 (issued November 9, 2018).

⁹ *I.J.*, 59 ECAB 408 (2008).

¹⁰ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3e (January 2013).

¹¹ *T.W.*, Docket No. 19-0677 (issued August 16, 2019).

¹² See *S.E.*, Docket No. 08-2214 (issued May 6, 2009) (finding that opinions such as the condition is probably related, most likely related, or could be related are speculative and diminish the probative value of the medical opinion); *Cecilia M. Corley*, 56 ECAB 662, 669 (2005) (finding that medical opinions which are speculative or equivocal are of diminished probative value).

condition and appellant's specific employment factor(s).¹³ Thus, his April 30, 2019 letter is of diminished probative value and is insufficient to establish appellant's claim.

In his March 14, 2019 letter, Dr. Formal provided a history of his treatment for appellant's paraplegia and noted that it was caused by a work-related injury on November 28, 2018. While he provided an affirmative opinion on causal relationship, his opinion is insufficiently rationalized as he failed to explain the pathophysiologic mechanism by which the accepted employment activity caused, aggravated, or accelerated appellant's injuries. Without such rationale, Dr. Formal's March 14, 2019 letter is of limited probative value.¹⁴

Dr. Formal's remaining medical evidence consisted of a December 7, 2018 medical note and a January 11, 2019 Family and Medical Leave Act certification form. In this evidence, he provided evaluations of appellant's condition as it related to the November 28, 2018 employment incident and also noted her history of cervical disc disease and lower back pain possibly related to a motor vehicle accident. However, Dr. Formal offered no opinion regarding the cause of appellant's medical 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.¹⁵ Therefore, Dr. Formal's remaining medical evidence is insufficient to establish appellant's claim.

Appellant also provided physical therapy notes dated January 25 and 28, 2019 signed by multiple physical therapists. The Board has held that certain healthcare providers such as physician assistants, nurse practitioners, physical therapists, and social workers are not considered physicians as defined under FECA.¹⁶ Consequently, their medical findings and/or opinions will not suffice for purposes of establishing entitlement to FECA benefits.¹⁷

As appellant has not submitted rationalized medical evidence establishing that her condition is causally related to the accepted November 28, 2018 employment incident, the Board finds that she has not met her burden of proof to establish her claim.

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 *M.V.*, Docket No. 18-0884 (issued December 28, 2018); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

¹⁴ *See A.P.*, Docket No. 19-0224 (issued July 11, 2019).

¹⁵ *R.Z.*, Docket No. 19-0408 (issued June 26 2019); *P.S.*, Docket No. 18-1222 (issued January 8, 2019).

¹⁶ 5 U.S.C. § 8101(2); 20 C.F.R. § 10.5(t).

¹⁷ *See M.F.*, Docket No. 17-1973 (issued December 31, 2018); *K.W.*, 59 ECAB 271, 279 (2007); *David P. Sawchuk*, 57 ECAB 316, 320 n.11 (2006). Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3a(1) (January 2013). *See also M.O.*, Docket No. 18-0229 (issued September 23, 2019) (physical therapists are not considered physicians under FECA).

CONCLUSION

The Board finds that appellant has not met her burden of proof to establish a spinal condition causally related to the accepted November 28, 2018 employment incident.

ORDER

IT IS HEREBY ORDERED THAT the June 12 and March 30, 2019 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: February 6, 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