

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

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**M.M., Appellant**

**and**

**U.S. POSTAL SERVICE, RASPEBURG POST  
OFFICE, Baltimore, MD, Employer**

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**Docket No. 19-1580  
Issued: February 19, 2020**

*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  
JANICE B. ASKIN, Judge  
VALERIE D. EVANS-HARRELL, Alternate Judge

**JURISDICTION**

On July 19, 2019 appellant filed a timely appeal from a June 20, 2019 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act<sup>1</sup> (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.<sup>2</sup>

**ISSUE**

The issue is whether appellant has met her burden of proof to establish that her right sacroiliac joint condition was causally related to the accepted factors of her federal employment.

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<sup>1</sup> 5 U.S.C. § 8101 *et seq.*

<sup>2</sup> The Board notes that, following the June 20, 2019 decision, OWCP received additional evidence. 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 April 10, 2019 appellant, then a 33-year-old letter carrier, filed an occupational disease claim (Form CA-2) alleging that she developed a right hip condition due to constant reaching, twisting, and turning required to place mail into boxes when delivering to approximately 300 houses on her route, while in the performance of duty. She indicated that she first became aware of her condition and its relationship to factors of her federal employment on February 11, 2019. Appellant stopped work on February 13, 2019.

In a development letter dated April 18, 2019, 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 letter of even date, OWCP requested additional information from the employing establishment regarding appellant's claim. It afforded both parties 30 days to submit the requested information.

Thereafter, OWCP received a report dated February 12, 2019 from Susan Giscombe, a nurse practitioner, who related appellant's complaints of having significant difficulties with the physical requirements of her job because of lower, right-sided back pain. Ms. Giscombe diagnosed lumbar strain and recommended that appellant's duty status be updated to no driving. In an addendum report dated February 13, 2019, she noted that appellant could return to modified work on February 13, 2019 with occasional walking and standing, and with a 10-pound lifting, pushing, and pulling restriction.

In a February 26, 2019 report, Dr. Michael A. Randolph, a Board-certified specialist in internal medicine, noted that appellant experienced pain in the right posterior hip that was aggravated by prolonged standing and sitting. He related that on approximately February 12, 2019 appellant started to notice pain into her right hip, which occurred while she was working as a mail carrier. Dr. Randolph diagnosed appellant with a sprain of the sacroiliac joint. He opined that appellant was not advised to continue with her normal occupational tasks until the resolution of her symptoms. On March 14, 2019 Dr. Randolph related that appellant was seen in a follow up for chronic lower leg and possible S1 joint dysfunction attributed to her job as a mail carrier. He again diagnosed sacroiliac sprain. In an April 15, 2019 report, Dr. Randolph again diagnosed sacroiliac joint sprain, and related that appellant experienced muscle spasm in the lumbar spine. He also indicated that she was still unable to work at that time.

On April 29, 2019 appellant responded to OWCP's development questionnaire. She stated that she began feeling right hip pain on February 11, 2019 while delivering on her mounted (vehicular) route. Appellant noted that, while on her mounted route, she performed twisting, turning, and reaching motions while sitting to deliver mail. She estimated that she averaged 300 deliveries daily on her mounted route, which lasted three hours. Appellant indicated that she had been working her route for approximately seven months and had no prior injury or illness related to her right hip.

By decision dated June 20, 2019, OWCP denied appellant's claim, finding that the medical evidence submitted was insufficient to establish causal relationship between her diagnosed medical conditions and the accepted factors of her federal employment.

## LEGAL PRECEDENT

An employee seeking benefits under FECA<sup>3</sup> 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,<sup>4</sup> 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.<sup>5</sup> 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.<sup>6</sup>

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; (2) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; and (3) medical evidence establishing that the diagnosed condition is causally related to the identified employment factors.<sup>7</sup>

Causal relationship is a medical issue and the medical evidence required to establish causal relationship is rationalized medical opinion evidence.<sup>8</sup> 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 factors identified by the claimant.<sup>9</sup> Neither the mere fact that a disease or condition manifests itself during a period of employment, nor the belief that the disease or condition was caused or aggravated by employment factors or incidents, is sufficient to establish causal relationship.<sup>10</sup>

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<sup>3</sup> *Supra* note 1.

<sup>4</sup> *S.P.*, Docket No. 19-0819 (issued January 10, 2020); *J.P.*, 59 ECAB 178 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

<sup>5</sup> *M.C.*, Docket No. 19-1192 (issued January 6, 2020); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

<sup>6</sup> 20 C.F.R. § 10.115; *D.O.*, Docket No. 19-1437 (issued January 2, 2020); *L.M.*, Docket No. 13-1402 (issued February 7, 2014); *Delores C. Ellyett*, 41 ECAB 992 (1990).

<sup>7</sup> *See M.C.*, *supra* note 5; *Roy L. Humphrey*, 57 ECAB 238, 241 (2005); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

<sup>8</sup> *A.W.*, Docket No. 19-1277 (issued January 3, 2020); *Jacqueline M. Nixon-Steward*, 52 ECAB 140 (2000).

<sup>9</sup> *S.P.*, *supra* note 4; *Leslie C. Moore*, 52 ECAB 132 (2000).

<sup>10</sup> *A.W.*, *supra* note 8; *Gary L. Fowler*, 45 ECAB 365 (1994).

## ANALYSIS

The Board finds that appellant has not met her burden of proof to establish that her right sacroiliac joint condition was causally related to the accepted factors of her federal employment.

In his February 26, 2019 report, Dr. Randolph discussed appellant's complaints of right hip pain that she related were aggravated by prolonged standing and sitting. He related that her symptoms began on approximately February 12, 2019 when she noticed right hip pain while delivering mail. Dr. Randolph diagnosed sprain of the sacroiliac joint. The Board has held that the mere fact that appellant's symptoms arise during a period of employment or produce symptoms revelatory of an underlying condition does not establish a causal relationship between a diagnosed condition and employment factors.<sup>11</sup> A medical opinion must provide an explanation of how specific employment factors physiologically caused or aggravated the diagnosed conditions.<sup>12</sup> As Dr. Randolph's report did not contain a rationalized medical opinion regarding causal relationship, it is of limited probative value.<sup>13</sup>

In his March 14, 2019 report, Dr. Randolph related that appellant's sacroiliac joint dysfunction was attributed to her job as a mail carrier. Although Dr. Randolph supported causal relationship, he did not provide medical rationale explaining the basis of his conclusory opinion regarding the causal relationship between appellant's right hip sacroiliac joint dysfunction and the factors of her federal employment.<sup>14</sup> As such, this report is of limited probative value.

In an April 15, 2019 report, Dr. Randolph noted that appellant continued to experience discomfort in the right hip and lower back. He diagnosed sprain of the sacroiliac joint, but failed to relate the sprain to the accepted factors of appellant's federal employment. 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.<sup>15</sup> The Board, therefore, finds that Dr. Randolph's reports, which lack medical rationale regarding causal relationship, are insufficient to establish appellant's claim.

OWCP also received February 12 and 13, 2019 reports, wherein Ms. Giscombe, a nurse practitioner, diagnosed a lumbar strain. These reports are of no probative value because nurse

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<sup>11</sup> *A.B.*, Docket No. 19-0734 (issued August 22, 2019); *see C.L.*, Docket No. 16-1078 (issued October 21, 2016); *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

<sup>12</sup> *See A.P.*, Docket No. 18-1690 (issued December 12, 2019).

<sup>13</sup> *K.G.*, Docket No. 18-1598 (issued January 7, 2020); *see A.B.*, Docket No. 16-1163 (issued September 8, 2017).

<sup>14</sup> *K.G., id.*; *See T.M.*, Docket No. 08-0975 (issued February 6, 2009) (a medical report is of limited probative value on the issue of causal relationship if it contains a conclusion regarding causal relationship which is unsupported by medical rationale).

<sup>15</sup> *S.P.*, *supra* note 4; *M.C.*, *supra* note 5.

practitioners are not considered physicians under FECA.<sup>16</sup> They are therefore insufficient to establish appellant's claim.

As appellant has not submitted rationalized medical evidence explaining a causal relationship between her diagnosed medical conditions and the accepted factors of her federal employment, the Board finds that she has not met her burden of proof.

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 that her right sacroiliac joint condition was causally related to the accepted factors of her federal employment.

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<sup>16</sup> Section 8101(2) of FECA provides that physicians "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 S.J.*, Docket No. 19-0489 (issued January 13, 2020); *David P. Sawchuk*, 57 ECAB 316, 320 n.11 (2006) (finding that lay individuals such as physician assistants, nurses, and physical therapists are not competent to render a medical opinion under FECA). *See K.G.*, *supra* note 13 (a nurse practitioner is not considered a physician under FECA).

**ORDER**

**IT IS HEREBY ORDERED THAT** the June 20, 2019 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: February 19, 2020  
Washington, DC

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

Janice B. Askin, Judge  
Employees' Compensation Appeals Board

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