



## **ISSUE**

The issue is whether appellant has met his burden of proof to establish a lumbar condition causally related to the accepted June 27, 2019 employment incident.

## **FACTUAL HISTORY**

On July 15, 2019 appellant, then a 43-year-old medical instrument technician, filed a traumatic injury claim (Form CA-1) alleging that on June 27, 2019 he was bent over, adjusting a patient's continuous positive airway pressure (CPAP) mask, when he felt a sharp pain in his lower back while in the performance of duty. Appellant stated that a computerized tomography (CT) scan displayed a herniated disc at L5. On the reverse side of the claim form, the employing establishment noted appellant's date of injury as June 27, 2019, but asserted that he was not injured in the performance of duty as no cause of an injury was stated and he had a questionable preexisting condition. The employing establishment further noted that appellant did not report the incident until July 16, 2019, when he underwent a surgical procedure, and that he recently had issues with management. Appellant stopped work on July 3, 2019.

In a July 22, 2019 development letter, OWCP informed appellant that additional evidence was required to establish his claim. It advised him of the type of factual and medical evidence necessary to establish his claim. OWCP afforded appellant 30 days to submit the necessary evidence.

An unsigned July 4, 2019 visit summary from a medical provider indicated that appellant presented with lower back pain radiating into his leg and toes that he described as burning, tingling, sharp, stabbing, and numbing. It related that the onset of his back pain was acute and had occurred in a constant pattern for the past 10 days and was now worsening. Appellant stated that he had difficulty with activities of daily living and that his pain was aggravated by movement. The visit summary noted that his pain was preceded by an incident at work. It also indicated that appellant's pain was located in the medial iliac crest, lumbar paraspinal, and lateral sacrum. The visit summary related that he was diagnosed with left side sciatica.

A July 6, 2019 unsigned visit summary from the same provider repeated appellant's history of injury and indicated that appellant presented with lower back pain, sharp left foot and leg pain upon movement, and achy burning upon sitting.

A July 8, 2019 unsigned visit summary from a different medical provider indicated that appellant presented with worsening low back pain. It repeated his history of injury and noted that the previous day he received a massage and woke up in the morning with tingling in his left foot and calf. The visit summary stated that on Thursday appellant had tweaked his back and was now unable to walk well on his left leg. It additionally noted that he had not previously undergone lumbar surgery.

A July 11, 2019 CT scan of appellant's lumbar spine interpreted by Dr. Lauren Wingo, an emergency medicine specialist, displayed an inferior disc protrusion at L4-5 extending inferiorly to the level of the midportion of the L5 vertebral body, eccentric to the left, effacing the left subarticular recess and the thecal sac. It also showed anterior endplate spurring at L2-3.

In July 11, 2019 unsigned discharge instructions from an emergency department noted back pain and an intervertebral disc displacement of the lumbar region. The instructions identified appellant's attending physician as Dr. Wingo, listed additional medications appellant was prescribed, and indicated that he should follow up with his primary care physician.

In a July 24, 2019 controversion letter, the employing establishment indicated that appellant only stated that he bent over to adjust a CPAP mask, and that his medical records did not mention any work-related event that could cause a disc herniation. It also related that he had delayed in reporting the alleged injury.

By decision dated August 26, 2019, OWCP denied appellant's traumatic injury claim. It found that the evidence of record established that the incident occurred as alleged and that a lumbar condition had been diagnosed. OWCP also found that the evidence of record was insufficient to establish causal relationship between appellant's diagnosed condition and the accepted June 27, 2019 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 FECA<sup>4</sup> has the burden of proof to establish the essential elements of his or her claim, including 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,<sup>5</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>6</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>7</sup>

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it first must be determined whether fact of injury has been established. There are two components involved in establishing fact of injury. First, the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time and place, and in the manner alleged. The second component is whether the employment incident caused a personal injury and this component can be established only by medical evidence.<sup>8</sup>

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<sup>4</sup> *Supra* note 2.

<sup>5</sup> *F.H.*, Docket No. 18-0869 (issued January 29, 2020); *J.P.*, Docket No. 19-0129 (issued April 26, 2019); *Joe D. Cameron*, 41 ECAB 153 (1989).

<sup>6</sup> *J.H.*, Docket No. 18-1637 (issued January 29, 2020); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

<sup>7</sup> *P.A.*, Docket No. 18-0559 (issued January 29, 2020); *K.M.*, Docket No. 15-1660 (issued September 16, 2016); *Delores C. Ellyett*, 41 ECAB 992 (1990).

<sup>8</sup> *T.H.*, Docket No. 19-0599 (issued January 28, 2020); *K.L.*, Docket No. 18-1029 (issued January 9, 2019); *John J. Carlone*, 41 ECAB 354 (1989).

The medical evidence required to establish causal relationship between a claimed specific condition and an employment incident is rationalized medical opinion evidence.<sup>9</sup> 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 specific employment factors identified by the employee.<sup>10</sup>

In a 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.<sup>11</sup>

### ANALYSIS

The Board finds that appellant has not met his burden of proof to establish a lumbar condition causally related to the accepted June 27, 2019 employment incident.

In support of his claim, appellant submitted an unsigned visit summaries of July 4, 6, and 8, 2019, from various health care providers and July 11, 2019 unsigned discharge instructions from a hospital. The Board has held that reports that are unsigned or bear an illegible signature lack proper identification and cannot be considered probative medical evidence as the author cannot be identified as a physician.<sup>12</sup> Therefore, these medical records have no probative value and are insufficient to establish appellant's claim.

Appellant additionally submitted a July 11, 2019 lumbar spine CT scan from Dr. Wingo which related a diagnosis of L4-5 inferior disc protrusion. The Board has held, however, that reports of diagnostic tests standing alone lack probative value as they do not provide an opinion on causal relationship between an employment incident and a diagnosed condition.<sup>13</sup>

As appellant has not submitted rationalized medical evidence establishing causal relationship between his intervertebral disc displacement of the lumbar region and the accepted June 27, 2019 employment incident, the Board finds that he has not met his burden of proof to establish his 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 and 20 C.F.R. §§ 10.605 through 10.607.

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<sup>9</sup> *S.S.*, Docket No. 19-0688 (issued January 24, 2020); *A.M.*, Docket No. 18-1748 (issued April 24, 2019); *Robert G. Morris*, 48 ECAB 238 (1996).

<sup>10</sup> *T.L.*, Docket No. 18-0778 (issued January 22, 2020); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

<sup>11</sup> Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3e (January 2013); *V.W.*, Docket No. 19-1537 (issued May 13, 2020); *N.C.*, Docket No. 19-1191 (issued December 19, 2019); *R.D.*, Docket No. 18-1551 (issued March 1, 2019).

<sup>12</sup> *M.A.*, Docket No. 19-1551 (issued April 30, 2020); *T.O.*, Docket No. 19-1291 (issued December 11, 2019).

<sup>13</sup> *See J.M.*, Docket No. 17-1688 (issued December 13, 2018).

**CONCLUSION**

The Board finds that appellant has not met his burden of proof to establish a lumbar condition causally related to the accepted June 27, 2019 employment incident.

**ORDER**

**IT IS HEREBY ORDERED THAT** the August 26, 2019 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: July 30, 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