

FACTUAL HISTORY

On July 25, 2018 appellant, then a 46-year-old postal support employee mail processing clerk, filed a traumatic injury claim (Form CA-1) alleging that on July 22, 2018 he injured his lower back when lifting a parcel “marked heavy” while in the performance of duty.

On July 25, 2018 the employing establishment issued an authorization for examination and/or treatment (Form CA-16), which allowed appellant to seek medical treatment for his alleged injury.

A July 25, 2018 attending physician’s report (Part B of the Form CA-16), bearing an illegible signature, indicated that appellant lifted a heavy box and experienced low back pain. Appellant’s x-rays were noted as negative for acute bony injury. His diagnosis was listed as lumbar strain and it was noted that this was an aggravation of a preexisting injury. Appellant was released to light-duty work.

Appellant was also seen by Steven Byrne, a certified physician assistant, on July 25, 2018. Mr. Byrne noted the history of the claimed July 22, 2018 employment incident. He reported that appellant had been followed by the Veterans Administration for lumbar spine problems and chronic right knee complaints. Mr. Byrne diagnosed lumbar sprain related to work activities and released appellant to modified duty. An October 30, 2018 progress report from Mr. Byrne was also received which repeated his previous diagnosis, etiology of complaints, and restrictions.

In a July 26, 2018 report, Dr. Jay Neubauer, Board-certified in aerospace medicine, noted the history of appellant’s July 22, 2018 employment incident. He also noted that appellant had a history of chronic back pain and sciatica. Dr. Neubauer indicated that appellant’s July 25, 2018 x-rays were negative for acute bony injury, but showed that degenerative changes had occurred since his previous examination in 2015. He diagnosed lumbar sprain which he opined appeared to be, in part, related to work activities. Appellant was released to modified-duty work. In follow-up reports, a Form CA-17, and a visit summary all dated August 1, 2018 Dr. Neubauer diagnosed lumbar back sprain due to the July 22, 2018 incident. He advised that appellant could resume part-time, limited-duty work with restrictions.³

In an initial August 8, 2018 report and follow up reports dated August 15, 22, 29, 2018, Dr. Thomas Centi, an occupational medicine specialist, provided evaluations of appellant’s lumbar strain, which he indicated began on July 22, 2018 when appellant was bending over and lifting a heavy box. He diagnosed lumbar sprain, which he opined was related to work activities. Appellant was continued on modified duty and physical therapy.

Appellant voluntarily resigned from the employing establishment on September 4, 2018.

A November 28, 2018 x-ray of appellant’s lumbar spine revealed moderate L3-4 and L5-S1 degenerative disc disease and four centimeter anterior sagittal imbalance.

In a March 13, 2019 development letter, OWCP advised appellant that, when his claim was received, it appeared to be a minor injury that resulted in minimal or no lost time from work. The claim was administratively approved to allow payment for limited medical expenses, but the merits

³ On July 31, 2018 appellant accepted a part-time modified limited-duty assignment.

of the claim had not been formally adjudicated. OWCP requested that he submit factual and medical information, including a comprehensive report from his physician regarding how the July 22, 2018 employment incident contributed to his claimed injury. It afforded appellant 30 days to submit the necessary evidence. No additional evidence was received.

By decision dated April 16, 2019, OWCP denied the claim. It found that the evidence failed to establish that the July 22, 2018 incident occurred as alleged. OWCP concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

Following the decision, OWCP received duplicative evidence, previously of record. A new report dated April 22, 2019 was received from Dr. Venu Akuthota, Board-certified in physical medicine and rehabilitation, pain medicine, and sports medicine. He related: appellant was being treated for the conditions of myofascial strain, following a fall backwards from a chair at work; mild concussion and occipital headache following the fall; a history of lumbar degenerative disc disease, most significant at L5-S1; and history of bilateral radicular lower extremity pain.

On April 22, 2019 appellant requested a telephonic hearing before an OWCP hearing representative that was held on July 26, 2019. He testified that on July 22, 2018 he lifted approximately 375 to 450 parcels weighing 20 to 75 pounds. Appellant also indicated that he had developed a lumbar condition when he was on active military duty in June 2001. He reported that he sustained another injury on November 15, 2018 at a different employing establishment which also affected his back.

By decision dated September 3, 2019, an OWCP hearing representative found that the July 22, 2018 incident occurred as alleged, but affirmed the denial of the claim, as modified to find that causal relationship had not been established.⁴

LEGAL PRECEDENT

An employee seeking benefits under FECA⁵ 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,⁶ 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.⁷ 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.⁸

⁴ OWCP's hearing representative also noted that appellant had filed a subsequent claim for a lumbar injury in November 2018 under OWCP File No. xxxxxx146 he recommended that the claim files be consolidated.

⁵ *Supra* note 1.

⁶ *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).

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

⁸ *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).

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.⁹ 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.¹⁰ The second component is whether the employment incident caused a personal injury.¹¹

Rationalized medical opinion evidence is required to establish causal relationship. 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 incident.¹²

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.¹³

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish a back condition causally related to the accepted July 22, 2018 employment incident.

In his July 26, 2018 report, Dr. Neubauer noted the history of the July 22, 2018 incident. He also noted that appellant had a history of chronic back pain and sciatica and that the July 25, 2018 x-rays showed degenerative changes had occurred since appellant's previous examination in 2015. Dr. Neubauer diagnosed a lumbar sprain that appeared to be, in part, related to work activities. In follow-up reports, a Form CA-17, and a visit summary, all dated August 1, 2018, he diagnosed lumbar back sprain due to the July 22, 2018 injury. Although his reports generally supported causal relationship, Dr. Neubauer did not provide any rationale explaining his conclusion. He did not differentiate between the effects of the work-related injury or disease and the preexisting condition.¹⁴ Additionally, Dr. Neubauer did not specifically discuss how or why appellant's back strain was caused by the July 22, 2018 employment incident.¹⁵ Thus, his medical reports are insufficient to establish appellant's claim.

Dr. Centi's reports noted the history of the July 22, 2018 injury as appellant was bending over and lifting a heavy box. He diagnosed lumbar spine sprain causally related to work activities. Dr. Centi, however, failed to provide a rationalized medical opinion which explained how

⁹ *E.M.*, Docket No. 18-1599 (issued March 7, 2019); *T.H.*, 59 ECAB 388, 393-94 (2008).

¹⁰ *L.T.*, Docket No. 18-1603 (issued February 21, 2019); *Elaine Pendleton*, 40 ECAB 1143 (1989).

¹¹ *B.M.*, Docket No. 17-0796 (issued July 5, 2018); *John J. Carlone*, 41 ECAB 354 (1989).

¹² *M.A.*, Docket No. 19-1551 (issued April 30, 2020); *Dennis M. Mascarenas*, 49 ECAB 215 (1997).

¹³ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3e (January 2013); *see A.S.*, Docket No. 19-1955 (issued April 9, 2020).

¹⁴ *Id.*

¹⁵ *Supra* note 11.

appellant's bending and lifting of a heavy box caused or aggravated appellant's back condition. Additionally, Dr. Centi failed to mention appellant's preexisting back condition. To be of probative medical value, a medical opinion must explain how, physiologically, the movements involved in the employment incident caused or contributed to the diagnosed conditions.¹⁶ Thus, Dr. Centi's reports are insufficient to establish appellant's claim.

OWCP also received an April 22, 2019 report from Dr. Akuthota. Dr. Akuthota noted diagnoses of myofascial strain and mild concussion with occipital headache. However, he failed to provide an opinion on the issue of causal relationship. 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.¹⁷ This report, therefore, is insufficient to establish appellant's claim.

Appellant also submitted reports from Mr. Byrne, a certified physician assistant. A physician assistant, however, is not considered a "physician" as defined under FECA, and thus these records are of no probative value.¹⁸

Appellant also submitted a November 28, 2018 lumbar x-ray. The Board has held, however, that diagnostic studies standing alone lack probative value as they do not address whether the employment incident caused any of the diagnosed conditions.¹⁹

OWCP also received a July 25, 2018 Form CA-20 containing an illegible signature. The Board has held that reports that are unsigned or bear an illegible signature lack proper identification

¹⁶ A.W., Docket No. 19-0327 (issued July 19, 2019).

¹⁷ See L.B., Docket No. 18-0533 (issued August 27, 2018); D.K., Docket No. 17-1549 (issued July 6, 2018).

¹⁸ 5 U.S.C. § 8102(2) of FECA provides as follows: physician includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, and osteopathic practitioners within the scope of their practice as defined by State law. 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). 5 U.S.C. § 8101(2); 20 C.F.R. § 10.5(t). R.K., Docket No. 20-0049 (issued April 10, 2020) (a physician assistant is not considered a "physician" as defined under FECA).

¹⁹ N.B., Docket No. 19-0221 (issued July 15, 2019).

and cannot be considered probative medical evidence as the author cannot be identified as a physician.²⁰ Therefore, this report has no probative value and is insufficient to establish the claim.

The Board finds that appellant has not submitted rationalized medical evidence establishing a back condition causally related to the accepted July 22, 2018 employment incident and therefore 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(a) and 20 C.F.R. §§ 10.605 through 10.607.²¹

CONCLUSION

The Board finds that appellant has not met his burden of proof to establish a back condition causally related to the accepted July 22, 2018 employment incident.

ORDER

IT IS HEREBY ORDERED THAT the September 3, 2019 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: June 25, 2020
Washington, DC

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

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

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

²⁰ See *T.O.*, Docket No. 19-1291 (issued December 11, 2019).

²¹ 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); *C.B.*, Docket No. 20-0250 (issued April 28, 2020); *J.G.*, Docket No. 17-1062 (issued February 13, 2018); *Tracy P. Spillane*, 54 ECAB 608 (2003).