

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

S.K., Appellant)	
)	
and)	Docket No. 20-0102
)	Issued: June 12, 2020
U.S. POSTAL SERVICE, MAIN OFFICE)	
LONG ISLAND CITY POST OFFICE,)	
Long Island City, NY, Employer)	
)	

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

Case Submitted on the Record

DECISION AND ORDER

Before:
CHRISTOPHER J. GODFREY, Deputy Chief Judge
JANICE B. ASKIN, Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On October 10, 2019 appellant filed a timely appeal from an April 17, 2019 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act¹ (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.²

¹ 5 U.S.C. § 8101 *et seq.*

² The Board notes that following the April 17, 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.*

ISSUE

The issue is whether appellant has met her burden of proof to establish a lumbar, right hip, or right leg condition causally related to the accepted January 30, 2019 employment incident.

FACTUAL HISTORY

On February 1, 2019 appellant, then a 65-year-old clerk, filed a traumatic injury claim (Form CA-1) alleging that on January 30, 2019 she experienced pain in the right hip and leg after lifting a bag of parcels while in the performance of duty. On the reverse side of the claim form, the employing establishment acknowledged that she was injured in the performance of duty. Appellant did not stop work.

In a February 25, 2019 development letter, 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. OWCP afforded appellant 30 days to submit the necessary evidence.

In a February 6, 2019 attending physician's report (Form CA-20), Dr. David Guha, a specialist in internal medicine, diagnosed right hip and leg pain, with findings of mild degenerative changes from excessive lifting and standing. He checked a box marked "Yes" to indicate that the conditions were caused or aggravated by an employment activity and noted that appellant was not advised to return to work.

Electromyography and nerve conduction velocity (EMG/NCV) test studies, dated February 14, 2019, revealed evidence of right L5-S1 radiculopathy and bilateral tibial motor nerve neuropathy.

In a February 14, 2019 report, Dr. Farshad Hannanian, a specialist in neurology, noted that appellant was experiencing lumbar pain, right leg pain, and right hip pain after lifting a heavy bag at work on January 30, 2019. He reviewed an x-ray of appellant's right hip and the electrodiagnostic testing and diagnosed post-traumatic lumbar myofascitis and post-traumatic lumbar radiculopathy. Dr. Hannanian noted that appellant was totally disabled at that time. He opined that the work-related accident was the "provocative cause" of appellant's diagnosed conditions and concluded that therefore there was a causal relationship between the diagnosed conditions and the employment incident of January 30, 2019.

In a February 14, 2019 form report, Dr. Hannanian diagnosed lumbar radiculopathy, right hip pain, and right leg pain. He checked a box marked "Yes" to indicate that the January 30, 2019 employment activity was the cause of appellant's diagnosed conditions. Dr. Hannanian reported that appellant was not currently working and noted that she needed magnetic resonance imaging (MRI) scans of her lumbar spine and right hip to further assess her injury.

In an undated Form CA-20 report, Dr. Hannanian diagnosed lumbar radiculopathy and checked a box marked "Yes" to indicate that the condition was caused or aggravated by an employment activity. He noted that appellant had not been advised to return to work.

In a March 10, 2019 follow-up report, Dr. Hannanian noted that appellant sustained injuries in a work-related incident on January 30, 2019. He further explained that appellant was working, lifting a heavy bag to place it on a skid when she injured her lower back, right hip, and leg. Dr. Hannanian examined appellant and diagnosed post-traumatic lumbar myofascitis and post-traumatic lumbar radiculopathy. He again opined that there was a causal relationship between the January 30, 2019 employment incident and appellant's diagnosed conditions.

In a March 10, 2019 letter, Dr. Hannanian noted that he was treating appellant for lumbar pain, hip pain, and leg pain. He recommended that appellant not return to work until further evaluation.

In a March 25, 2019 state workers' compensation form report, Dr. Hannanian diagnosed lumbar radiculopathy, right hip pain, and right leg pain. He checked a box marked "Yes" to indicate that the January 30, 2019 employment incident was the medical cause of appellant's diagnosed conditions. Dr. Hannanian reported that appellant was not working at that time.

In an April 11, 2019 letter, Dr. Hannanian again noted that he was treating appellant for lumbar pain, hip pain, and leg pain and recommended that appellant not return to work until further evaluation. He indicated that he would reevaluate appellant on May 9, 2019.

By decision dated April 17, 2019, OWCP denied appellant's traumatic injury claim finding that the medical evidence of record was insufficient to establish a causal relationship between appellant's diagnosed conditions and the accepted January 30, 2019 employment incident.

LEGAL PRECEDENT

An employee seeking benefits under FECA³ 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,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 has sustained a traumatic injury in the performance of duty, OWCP begins with an analysis of whether fact of injury has been established. Fact of injury consists of two components that must be considered in conjunction with one another. The first

³ *Supra* note 1.

⁴ *G.L.*, Docket No. 18-1057 (issued April 14, 2020); *J.P.*, 59 ECAB 178 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

⁵ *M.G.*, Docket No. 18-1616 (issued April 9, 2020); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

⁶ 20 C.F.R. § 10.115; *A.S.*, Docket No. 19-1955 (issued April 9, 2020); *L.M.*, Docket No. 13-1402 (issued February 7, 2014); *Delores C. Ellyett*, 41 ECAB 992 (1990).

component is whether the employee actually experienced the employment incident that allegedly occurred.⁷ The second component is whether the employment incident caused a personal injury.⁸

Causal relationship is a medical question that requires rationalized medical opinion evidence to resolve the issue.⁹ 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 incident identified by the claimant.¹⁰

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish a lumbar, right hip, or right leg condition causally related to the accepted January 30, 2019 employment incident.

In support of her claim, appellant submitted a February 6, 2019 Form CA-20 report from Dr. Guha who diagnosed right hip and leg pain with findings of mild degenerative changes. In this report, Dr. Guha checked a box marked “Yes” to indicate that the conditions were caused or aggravated by an employment activity. The Board has held that when a physician’s opinion on causal relationship consists only of checking “yes” to a form question, without explanation or medical rationale, that opinion is of diminished probative value.¹¹ Accordingly, this report from Dr. Guha is insufficient to establish appellant’s claim.

Similarly, in February 14 and March 25, 2019 form reports and an undated Form CA-20 report, Dr. Hannanian diagnosed lumbar radiculopathy, right hip pain, and right leg pain. In these reports, he also checked a box marked “Yes” to indicate that the January 30, 2019 employment incident was the medical cause of appellant’s diagnosed conditions. As previously explained, when a physician’s opinion on causal relationship consists only of checking “yes” to a form question, without explanation or medical rationale, that opinion is of diminished probative value.¹² As such, these reports are also insufficient to establish appellant’s claim.

Appellant also submitted February 14 and March 10, 2019 reports from Dr. Hannanian who diagnosed post-traumatic lumbar myofascitis and post-traumatic lumbar radiculopathy. In these reports, Dr. Hannanian concluded that these diagnosed conditions were causally related to the accepted employment incident. In his February 14, 2019 report, he noted that appellant’s injuries were sustained in a January 30, 2019 work-related incident in which appellant lifted a heavy bag to place on a skid. Dr. Hannanian opined that “with a reasonable degree of medical certainty” he could state that the accepted employment incident was the “provocative cause” of

⁷ *R.K.*, Docket No. 19-0904 (issued April 10, 2020); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁸ *Y.D.*, Docket No. 19-1200 (issued April 6, 2020); *John J. Carlone*, 41 ECAB 354 (1989).

⁹ *L.F.*, Docket No. 19-1905 (issued April 10, 2020); *Jacqueline M. Nixon-Steward*, 52 ECAB 140 (2000).

¹⁰ *A.S.*, Docket No. 19-1955 (issued April 9, 2020); *Leslie C. Moore*, 52 ECAB 132 (2000).

¹¹ *W.M.*, Docket No. 19-1853 (issued May 13, 2020).

¹² *Id.*

appellant's diagnosed conditions. Although he supported causal relationship, he failed to provide medical rationale explaining the basis of his conclusory opinion. Without explaining physiologically how the accepted employment incident caused or aggravated the diagnosed conditions, these reports are of limited probative value and are insufficient to establish appellant's claim.¹³

In March 10 and April 11, 2019 letters, Dr. Hannanian noted that he was treating appellant for lumbar pain, hip pain, and leg pain and recommended that appellant not return to work until further evaluation. In these letters, he did not offer a medical opinion as to whether appellant's diagnosed conditions were causally related to the accepted employment incident. The Board has held that medical evidence that does not provide an opinion regarding the cause of an employee's condition is of no probative value on the issue of causal relationship.¹⁴ These letters from Dr. Hannanian are therefore insufficient to establish appellant's claim.

Appellant also submitted February 14, 2019 EMG/NCV test studies which revealed evidence of right L5-S1 radiculopathy and bilateral tibial motor nerve neuropathy. The Board has held, however, that diagnostic studies standing alone lack probative value on the issue of causal relationship as they do not provide an opinion on causal relationship between an employment incident and a diagnosed condition.¹⁵

As appellant has not submitted rationalized medical evidence explaining the causal relationship between her diagnosed lumbar, right hip, or right leg condition and the accepted January 30, 2019 employment incident, 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 a lumbar, right hip, or right leg condition causally related to the accepted January 30, 2019 employment incident.

¹³ *M.M.*, Docket No. 20-0019 (issued May 6, 2020).

¹⁴ *Id.*

¹⁵ *Id.*

ORDER

IT IS HEREBY ORDERED THAT the April 17, 2019 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: June 12, 2020
Washington, DC

Christopher J. Godfrey, 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