

FACTUAL HISTORY

On October 8, 2019 appellant, then a 47-year-old rural carrier associate, filed a traumatic injury claim (Form CA-1) alleging that on the morning of October 6, 2019 she pulled a muscle under her left shoulder blade while in the performance of duty. She explained that her injury occurred when she was lifting a package marked as heavy out of her long-life vehicle (LLV) to deliver to a client's porch. Appellant indicated that she pulled a muscle under her left shoulder blade and experienced muscle spasms as a result. On the reverse side of the claim form, appellant's supervisor acknowledged that she was injured in the performance of duty, but controverted appellant's claim as she had not submitted any medical evidence in support of her claim. Appellant did not stop work.

In an attached personal statement of even date, appellant explained that during the morning of October 6, 2019 she was delivering a package, but could not recall the address where she delivered it. The package was marked as heavy and when she tried to lift it out of her LLV, she felt a pull in her back. Appellant completed her work and used ice, heat, and ibuprofen to treat her pain that day, as well as the following day. When she returned to work on October 8, 2019, she tried to lift a tote to place in her vehicle when she experienced back spasms. After completing her route, appellant notified her postmaster of her injury.

In a development letter dated October 15, 2019, OWCP informed appellant of the deficiencies of her claim. It advised her of the type of factual and medical evidence necessary to establish her claim and provided a questionnaire for her completion regarding the events and circumstances surrounding the alleged October 6, 2019 employment incident. OWCP also requested further information concerning appellant's October 8, 2019 injury. It afforded her 30 days to provide the necessary information.

In a separate development letter of even date, OWCP requested that the employing establishment provide additional information regarding appellant's traumatic injury claim, including comments from a knowledgeable supervisor regarding the accuracy of appellant's statements, as well as a record of her deliveries made on October 6, 2019. It afforded the employing establishment 30 days to respond.

In an October 8, 2019 medical report, Dr. Ramesh Pandit, Board-certified in internal medicine, reported that appellant presented with back pain that began two days prior after turning and lifting a heavy package while delivering mail. He diagnosed thoracic back pain and opined that her injury was likely a sprain. Dr. Pandit provided appellant with treatment instructions and recommended she stay out of work for a week.

Physical therapy treatment notes dated October 10 and 14, 2019 noted evaluations of appellant for pain in her thoracic spine. Appellant described the October 6, 2019 incident in which she picked up a heavy object and turned to the right when she first felt a pull in her upper back. She subsequently felt spasms in her back on October 8, 2019 when she went to load a tote into her vehicle.

In an October 15, 2019 medical report, Dr. Pandit reported that appellant's thoracic back pain had improved with treatment, but had not returned to baseline.

In an October 16, 2019 duty status report (Form CA-17) with an illegible signature, appellant was diagnosed with thoracic back pain. Her injury was described as a sprain that occurred while she was lifting a box/mail.

In physical therapy treatment notes dated October 16 and 18, 2019, provided updates for the treatment of appellant's thoracic back pain.

In an October 21, 2019 diagnostic report, Dr. Peter Furicchia, a Board-certified diagnostic radiologist, performed an x-ray of appellant's thoracic spine and noted that she had been experiencing pain in her back after lifting something heavy on October 6, 2019. He found no evidence of an acute fracture and provided that her x-ray was otherwise unremarkable.

In an October 21, 2019 medical report, Dr. Pandit evaluated appellant during a follow-up appointment related to her back pain. He explained that her symptoms had since resolved with therapy and treatment. In a medical note of even date, Dr. Pandit cleared appellant to return to work without restrictions.

In an October 22, 2019 letter, the employing establishment noted that appellant's inability to recall the address, time, or weight of the package she alleged caused her injury cast doubt on the validity of her claim. It also argued that the medical evidence she submitted was insufficient to establish her claim as it failed to provide a diagnosis or a well-reasoned medical opinion as to how her claimed injury was work related.

By decision dated November 18, 2019, OWCP denied appellant's traumatic injury claim, finding that the evidence of record was insufficient to establish that the injury and/or events occurred as he described. It explained that appellant had not provided a response to its development questionnaire and had not otherwise established the time or location of her injury or the size and weight of the object she was handling. OWCP further noted that she had not submitted medical evidence that established a diagnosed medical condition causally related to an employment injury or event and, therefore, fact of injury had not been established.

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

³ *Id.*

⁴ *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).

⁵ *J.M.*, Docket No. 17-0284 (issued February 7, 2018); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

compensation claim, regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁶

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.⁷ Generally, fact of injury consists of two components that must be considered in conjunction with one another. First, the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time, place, and in the manner alleged.⁸ Second, the employee must submit sufficient evidence to establish that the employment incident caused a personal injury.⁹

An injury does not have to be confirmed by eyewitnesses in order to establish the fact that an employee sustained an injury in the performance of duty, but the employee's statements must be consistent with the surrounding facts and circumstances and his or her subsequent course of action.¹⁰ The employee has not met his or her burden of proof to establish the occurrence of an injury when there are inconsistencies in the evidence that cast serious doubt upon the validity of the claim. Such circumstances as late notification of injury, lack of confirmation of injury, continuing to work without apparent difficulty following the alleged injury, and failure to obtain medical treatment may, if otherwise unexplained, cast sufficient doubt on an employee's statements in determining whether a *prima facie* case has been established.¹¹ An employee's statements alleging that an injury occurred at a given time and in a given manner is of great probative value and will stand unless refuted by strong or persuasive evidence.¹²

Second, the employee must submit medical evidence to establish that the employment incident caused a personal injury.¹³

Causal relationship is a medical issue, and the medical evidence required to establish causal relationship is rationalized medical opinion evidence.¹⁴ 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

⁶ *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).

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

⁸ *L.T.*, Docket No. 18-1603 (issued February 21, 2019); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁹ *B.M.*, Docket No. 17-0796 (issued July 5, 2018); *John J. Carlone*, 41 ECAB 354 (1989).

¹⁰ *M.F.*, Docket No. 18-1162 (issued April 9, 2019); *Charles B. Ward*, 38 ECAB 667, 67-71 (1987).

¹¹ *Betty J. Smith*, 54 ECAB 174 (2002); *L.D.*, Docket No. 16-0199 (issued March 8, 2016).

¹² *See M.C.*, Docket No. 18-1278 (issued March 7, 2019); *D.B.*, 58 ECAB 464, 466-67 (2007).

¹³ *A.D.*, Docket No. 17-1855 (issued February 26, 2018); *T.H.*, 59 ECAB 388 (2008).

¹⁴ *A.M.*, Docket No. 18-1748 (issued April 24, 2019); *T.H.*, 59 ECAB 388 (2008).

relationship between the diagnosed condition and the specific employment factors identified by the claimant.¹⁵

ANALYSIS

The Board finds that appellant has met her burden of proof to establish that the claimed October 6, 2019 employment incident occurred in the performance of duty, as alleged.

Appellant's October 8, 2019 Form CA-1 alleged that she pulled a muscle under her left shoulder blade and experienced muscle spasms after lifting a heavy package out of her LLV on the morning of October 6, 2019.

In her October 6, 2019 statement, appellant explained that she felt a pull in her back that morning after lifting a package marked as "heavy." After returning to work on October 8, 2019 and experiencing back spasms, she notified her postmaster of her injury claim. Appellant also reported the date and mechanism of the claimed October 6, 2019 injury in a consistent manner to her medical providers. In medical reports dated from October 8 to 21, 2019, Dr. Pandit indicated that he evaluated appellant for back pain related to an October 6, 2019 incident in which she turned and lifted a heavy package while she was at work. Further, in Dr. Furicchia's October 21, 2019 diagnostic report, he noted that appellant's thoracic back pain was due to an October 6, 2019 incident in which she lifted something heavy. Appellant also submitted physical therapy treatment notes dated from October 10 to 18, 2019 in which she was evaluated for her thoracic back pain related to the October 6, 2019 employment incident in which she lifted a heavy package and turned right.

Appellant's description of the employment incident is not contradicted by her medical reports or any other evidence of record. While she did not recall the exact time of her injury, appellant consistently contended that her injury occurred during the morning of October 6, 2019 when she lifted a heavy package out of her LLV. Moreover, she contemporaneously sought medical treatment after the claimed employment incident. Appellant's description of the employment incident is not contradicted by her medical reports or any other evidence of record. The employing establishment contended that appellant had not provided the address, time, or weight of the package that caused her injury, however it never disputed that the injury occurred, and on the reverse side of appellant's Form CA-1, it acknowledged that appellant was injured while in the performance of duty. Appellant's account of the alleged incident is consistent with the surrounding facts and circumstances and her subsequent course of action does not cast doubt on the validity of the claim. Thus, the Board finds that given the above-referenced evidence, she has alleged with specificity that the incident occurred at the time, place, and in the manner alleged.¹⁶

¹⁵ *M.V.*, Docket No. 18-0884 (issued December 28, 2018); *I.J.*, 59 ECAB 408 (2008).

¹⁶ *D.R.*, Docket No. 19-0072 (issued June 24, 2019).

As appellant has established that the October 6, 2019 employment incident factually occurred, the issue is thus whether this accepted incident caused an injury.¹⁷ The Board will, therefore, set aside OWCP's November 18, 2019 decision and remand the case for consideration of the medical evidence. Following this and other such further development as may deemed necessary, OWCP shall issue a *de novo* decision addressing whether appellant has met her burden of proof to establish a diagnosed medical condition causally related to the accepted employment incident.¹⁸

CONCLUSION

The Board finds that appellant has established that the October 6, 2019 employment incident occurred, as alleged. The Board further finds that the case is not in posture for decision with regard to whether appellant has established an injury causally related to the accepted employment incident.

ORDER

IT IS HEREBY ORDERED THAT the November 18, 2019 decision of the Office of Workers' Compensation Programs is set aside and the case is remanded for further proceedings consistent with this decision of the Board.

Issued: June 30, 2020
Washington, DC

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

Christopher J. Godfrey, Deputy Chief Judge
Employees' Compensation Appeals Board

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

¹⁷ *Supra* note 13.

¹⁸ *Id.*