



in her hip as a result of helping a coworker “lift a heavy, long-awkward package” on September 22, 2017 while in the performance of duty. She stopped work on that day.

In support of her claim, appellant submitted September 26, 2017 reports in which Dr. Stephen M. Burke, Board-certified in family medicine, noted her complaints of leg pain. She related that she had lifted a heavy box at work on September 22, 2017 and thought that this event caused radiating leg pain. Left hip examination demonstrated greater trochanteric bursitis, with tenderness of the greater trochanter and bursa and painful range of motion. Dr. Burke diagnosed trochanteric bursitis and diffuse left leg pain. He injected appellant’s hip, prescribed medication, and recommended that she be excused from work on September 26 and 27, 2017.

In reports dated September 28, 2017, Dr. Burke noted that she continued to have left hip pain with continued hip tenderness on examination, and also tenderness on lumbar spine examination. He diagnosed trochanteric bursitis and low back pain and advised that appellant not work from September 28 through 30, 2017, but could return to work on October 1, 2017.

A September 28, 2017 lumbar spine x-ray demonstrated minimal degenerative changes. A left hip x-ray of the same date showed no acute findings.

An October 9, 2017 lumbar spine magnetic resonance imaging (MRI) scan revealed L5-S1 spondylosis, left lateral recess disc herniation, facet joint arthropathy, and stenosis, L2-3 through L4-5 spondylosis with foraminal extension at certain levels, facet joint arthropathy, and ligamentum flavum hypertrophy resulting in mild central canal stenosis at all levels, as well as mild L3-4 and mild-to-moderate L4-5 bilateral neural foraminal narrowing.

On October 13, 2017 Dr. Mary McCormick, Board-certified in family medicine, noted appellant’s complaints of back pain that prevented bending, lifting, and twisting, and that radiated down to her foot. Lumbar spine examination demonstrated painful flexion. Dr. McCormick noted a bilateral antalgic gait and described MRI scan findings. She diagnosed lumbar disc herniation with radiculopathy and facet arthritis of the lumbosacral region. Dr. McCormick prescribed medication and recommended physical therapy for the facet arthritis, and recommended a neurosurgery consultation for the lumbar disc herniation.

In an October 26, 2017 report, Sarah Ferguson, a nurse practitioner who worked with Drs. Burke and McCormick, discussed examination findings and diagnosed facet arthritis of the lumbosacral region, lumbar disc herniation with radiculopathy, low back pain, and diffuse left leg pain. She noted that appellant had a neurosurgery consultation on November 1, 2017.

Dr. McCormick completed a duty status report (Form CA-17) on December 4, 2017. She described a history of lifting a heavy package on September 22, 2017 and clinical findings of core weakness, instability, and radiculopathy. Dr. McCormick diagnosed lumbar strain due to the injury with lumbar radiculopathy as another disabling condition. She advised that appellant could not perform her regular job duties and provided physical restrictions.

In a development letter dated December 19, 2017, OWCP noted that, when appellant’s claim was first received, it appeared to be a minor injury that resulted in minimal or no lost time from work and was therefore administratively approved for payment of a limited amount of medical expenses. It reported that the merits of her claim were now being considered and advised

that additional factual and medical evidence was needed to establish her claim. OWCP afforded appellant 30 days to submit the necessary evidence.

On January 2, 2018 appellant submitted the first page of a Form CA-1 which she had signed on October 16, 2017. She indicated that she sustained two bulging discs and one pinched nerve of the hip when she lifted an awkward, heavy package from the floor to a buggy on September 22, 2017. At the bottom of the Form CA-1 a coworker, M.H., provided a witness statement in which she related that she had called appellant to help her lift a heavy, odd-sized package, and appellant lifted the package from the floor by herself before M.H. had a chance to grab hold. Appellant then told another coworker that she would have to help M.H. load the package into her vehicle. She also submitted a signed statement of certification.

In a December 4, 2017 treatment note, Dr. McCormick noted continued complaints of back pain. Examination of the lumbosacral spine demonstrated pain and weakness on flexion and extension. Dr. McCormick also noted a bilateral antalgic gait. Her diagnoses included facet arthritis of the lumbosacral region. Dr. McCormick recommended that appellant continue with physical therapy and noted that appellant was not yet ready to return to work.

By decision dated January 22, 2018, OWCP denied appellant's claim. It accepted that the incident occurred as alleged and that a medical condition had been diagnosed, but found that she had not submitted sufficient medical evidence containing a rationalized medical opinion as to how her claimed medical conditions were a result of the accepted employment incident. OWCP concluded, therefore, that the requirements had not been met to establish an injury and/or a medical condition.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA<sup>2</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, that an injury<sup>3</sup> 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>4</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>5</sup>

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. First,

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<sup>2</sup> *Id.*

<sup>3</sup> OWCP's regulations define a traumatic injury as a condition of the body caused by a specific event or incident, or series of events or incidents, within a single workday or shift. Such condition must be caused by external force, including stress or strain, which is identifiable as to time and place of occurrence and member or function of the body affected. 20 C.F.R. § 10.5(ee).

<sup>4</sup> *D.J.*, Docket No. 19-1301, (issued January 29, 2020); *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

<sup>5</sup> *Id.*

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. Second, the employee must submit sufficient evidence to establish that the employment incident caused a personal injury.<sup>6</sup>

Causal relationship is a medical issue and the medical evidence required to establish causal relationship is rationalized medical opinion evidence.<sup>7</sup> Rationalized medical opinion evidence is medical evidence that includes a physician's rationalized opinion on whether there is a causal relationship between the employee's diagnosed condition and compensable employment factors.<sup>8</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 the specific employment factors identified by the employee.<sup>9</sup>

### ANALYSIS

The Board finds that appellant has not met her burden of proof to establish a medical condition causally related to the accepted September 22, 2017 employment incident.

In his reports dated September 26 and 28, 2017, Dr. Burke diagnosed trochanteric bursitis, but did not offer an opinion regarding the etiology of this diagnosis. Similarly, in her October 13, 2017 report and December 17, 2017 treatment note, Dr. McCormick diagnosed lumbar disc herniation with radiculopathy and facet arthritis of the lumbosacral region, but did not offer an opinion regarding the cause of those two conditions. Medical evidence offering no opinion regarding the cause of an employee's condition is of no probative value on the issue of causal relationship.<sup>10</sup> As such, these reports are insufficient to establish appellant's claim.

Dr. McCormick also diagnosed lumbar strain due to the September 22, 2017 employment incident on a December 4, 2017 duty status report. However, she did not explain how the employment incident caused or aggravated the diagnosed lumbar condition. Without explaining physiologically how the accepted employment incident caused or contributed to the diagnosed condition, the physician's report is of limited probative value.<sup>11</sup> The Board therefore finds that Dr. McCormick's December 4, 2017 duty status report is insufficient to establish the claim.

Appellant also submitted a report from Ms. Ferguson, a nurse practitioner. The Board finds that this report does not constitute competent medical evidence because nurse practitioners are not

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<sup>6</sup> *F.H.*, Docket No. 18-0869 (issued January 29, 2020).

<sup>7</sup> *T.H.*, Docket No. 19-0599 (issued January 28, 2020).

<sup>8</sup> *K.C.*, Docket No. 18-0529 (issued January 21, 2020).

<sup>9</sup> *D.J.*, *supra* note 4.

<sup>10</sup> *See L.C.*, Docket No. 19-1301 (issued January 29, 2020).

<sup>11</sup> *See K.N.*, Docket No. 18-0061 (issued January 22, 2020).

considered physicians as defined under FECA.<sup>12</sup> Consequently, Ms. Ferguson’s findings and/or opinions will not suffice for purposes of establishing entitlement to FECA benefits.<sup>13</sup> Therefore, her report is insufficient to establish the claim.

As to the diagnostic studies submitted by appellant, the hip x-ray revealed no acute findings, and neither the lumbar x-ray nor the lumbar MRI scan addressed the etiology of any findings. Diagnostic studies such as these lack probative value as they do not address the etiology of a diagnosed condition.<sup>14</sup>

The issue of a causal relationship between appellant’s claimed conditions and a work-related incident is a medical question that must be established by probative medical opinion from a physician.<sup>15</sup> As appellant has not submitted rationalized medical evidence to support her claim that she sustained lumbar conditions and/or trochanteric bursitis causally related to the September 22, 2017 employment incident, the Board finds that she has not met her burden of proof to establish her 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.

### **CONCLUSION**

The Board finds that appellant has not met her burden of proof to establish a medical condition causally related to the accepted September 22, 2017 employment incident.

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<sup>12</sup> Section 8101(2) of FECA provides that physician “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 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); *S.L.*, Docket No. 19-0607 (issued January 28, 2020); *M.M.*, Docket No. 19-1580 (issued February 19, 2020) (nurse practitioners are not considered physicians under FECA).

<sup>13</sup> *Id.*

<sup>14</sup> *See J.P.*, Docket No. 19-0216 (issued December 13, 2019).

<sup>15</sup> *K.C.*, *supra* note 8.

**ORDER**

**IT IS HEREBY ORDERED THAT** the January 22, 2018 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: March 17, 2020  
Washington, DC

Christopher J. Godfrey, Deputy 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