



## **FACTUAL HISTORY**

On June 14, 2019 appellant, then a 25-year-old mail carrier, filed a traumatic injury claim (Form CA-1) alleging that on June 6, 2019 she sustained injuries to her right wrist, left knee, and left leg when she was struck by a vehicle when she was crossing the street while in the performance of duty. She stopped work on that same day.

In a June 20, 2019 development letter, OWCP advised appellant of the deficiencies of her claim and afforded her 30 days to submit the necessary medical evidence and factual information.

Appellant submitted a June 10, 2019 medical report from Dr. Marvin Moy, Board-certified in disaster medicine, noting pain in the right wrist, left knee, and left leg as a result of being hit by a scooter when crossing the street on June 6, 2019. She was noted to present with difficulty bearing weight and was referred for a magnetic resonance imaging (MRI) scan of the right wrist and left knee.

OWCP also received a June 24, 2019 duty status report (Form CA-17) from Dr. Moy, noting that appellant sustained an injury to her left leg and right wrist on June 6, 2019. Dr. Moy provided work restrictions and diagnosed left knee and left leg sprains.

In an attending physician's report (Form CA-20) of even date, Dr. Moy diagnosed right wrist, left knee, and left leg sprains and checked a box marked "yes" indicating that appellant's conditions were caused or aggravated by an employment activity. He noted a period of total disability from June 7 to July 15, 2019.

Appellant subsequently submitted a July 10, 2019 report by Lisa Gillespie, a nurse, which indicated that she remained off work because of right wrist, left knee, and left leg sprains. It noted that she was currently attending physical therapy.

In a July 11, 2019 note, Dr. Moy reported that appellant was currently under his care and had been since June 10, 2019. He indicated that she was unable to return to work from July 11 to August 12, 2019.

By decision dated August 1, 2019, OWCP denied appellant's claim. It found that while she had established that the employment incident occurred as alleged, the evidence of record was insufficient to establish a medical diagnosis in connection with the accepted incident. Thus, OWCP concluded that the requirements had not been met to establish an injury as defined by FECA.

## **LEGAL PRECEDENT**

An employee seeking benefits under FECA<sup>3</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

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<sup>3</sup> *Supra* note 1.

limitation of FECA,<sup>4</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>5</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>6</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, place, and in the manner alleged. Second component is whether the employment incident caused a personal injury and can be established only by medical evidence.<sup>7</sup>

The medical evidence required to establish causal relationship between a claimed specific condition and an employment incident is rationalized medical opinion evidence.<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 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 June 6, 2019 employment incident.

Appellant submitted a June 10, 2019 medical report by Dr. Moy diagnosing pain in the right wrist, left knee, and left leg. However, the Board has held that pain is a symptom and not a compensable medical diagnosis.<sup>10</sup> Further, the Board has held that medical reports which do not provide a firm diagnosis or render an opinion on causal relationship are of no probative value and

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<sup>4</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>5</sup> *L.C.*, Docket No. 19-1301 (issued January 29, 2020); *J.H.*, Docket No. 18-1637 (issued January 29, 2020); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

<sup>6</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>7</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).

<sup>8</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>9</sup> *T.L.*, Docket No. 18-0778 (issued January 22, 2020); *Y.S.*, Docket No. 18-0366 (issued January 22, 2020); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

<sup>10</sup> *I.M.*, Docket 19-1038 (issued January 23, 2020); *R.C.*, Docket No. 19-0376 (issued July 15, 2019).

are insufficient to establish the claim.<sup>11</sup> Accordingly, this report is insufficient to satisfy appellant's burden of proof to establish her claim.<sup>12</sup>

In a June 24, 2019 duty status report (Form CA-17), Dr. Moy diagnosed left knee and left leg sprains. While his report contains diagnoses, it lacks any explanation of how the accepted June 6, 2019 incident caused appellant's left knee and left leg sprains. Without explaining physiologically how the accepted employment incident caused or contributed to the diagnosed conditions, Dr. Moy's reports are of limited probative value.<sup>13</sup> Accordingly, the Board finds that the report is also insufficient to establish appellant's claim.

In an attending physician's report (Form CA-20) of even date, Dr. Moy diagnosed right wrist, left knee, and left leg sprains and checked a box marked "yes" indicating that appellant's conditions were caused or aggravated by an employment activity. The Board has held, however, that medical evidence on causal relationship that consists only of a physician checking "yes" to a medical form question on whether the claimant's condition was related to the history given is of little probative value.<sup>14</sup> Without any explanation or rationale for the conclusion reached, such report is insufficient to establish causal relationship.<sup>15</sup>

The record also contains a report from Ms. Gillespie, a nurse, dated July 10, 2019. Health care providers such as nurses, acupuncturists, physician assistants, and physical therapists are not considered "physicians" as defined under FECA.<sup>16</sup> Thus, the nurse report does not constitute medical evidence and has no weight or probative value.<sup>17</sup>

As appellant has not submitted rationalized medical evidence explaining how her diagnosed medical conditions are causally related to the accepted June 6, 2019 employment incident, the Board finds that she has not met her burden of proof to establish her claim.<sup>18</sup>

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<sup>11</sup> *V.U.*, Docket No. 19-0755 (issued November 25, 2019); *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, No. 17-1549 (issued July 6, 2018).

<sup>12</sup> *T.G.*, Docket No. 19-0904 (issued November 25, 2019); *L.D.*, Docket No. 17-1581 (issued January 23, 2018); *Jacqueline M. Nixon-Steward*, 52 ECAB 140 (2000).

<sup>13</sup> *See J.G.*, Docket No. 19-1116 (issued November 25, 2019); *E.G.*, Docket No. 19-0914 (issued October 18, 2019); *A.B.*, Docket No. 16-1163 (issued September 8, 2017).

<sup>14</sup> *S.F.*, Docket No. 16-1276 (issued October 10, 2017); *N.L.*, Docket No. 17-0454 (issued April 6, 2017); *Lillian M. Jones*, 34 ECAB 379, 381 (1982).

<sup>15</sup> *N.V.*, Docket No. 17-0107 (issued July 3, 2017); *Deborah L. Beatty*, 54 ECAB 334 (2003) (the checking of a box marked yes in a form report, without additional explanation or rationale, is insufficient to establish causal relationship).

<sup>16</sup> 5 U.S.C. § 8102(2) of FECA provides that the term 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 P.A.*, *supra* note 6.; *K.C.*, Docket No. 19-0834 (issued October 28, 2019).

<sup>17</sup> *P.A.*, *id.*; *A.A.*, Docket No. 19-0957 (issued October 22, 2019); *K.H.*, Docket No. 18-0036 (issued September 16, 2016).

<sup>18</sup> *See E.G.*, *supra* note 13; *Linda I. Sprague*, 48 ECAB 386, 389-90 (1997).

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 June 6, 2019 employment incident.

**ORDER**

**IT IS HEREBY ORDERED THAT** the August 1, 2019 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: March 30, 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