



## **ISSUE**

The issue is whether appellant has met her burden of proof to establish a medical condition causally related to the accepted September 13, 2018 employment incident.

## **FACTUAL HISTORY**

On September 18, 2018 appellant, then a 56-year-old rural carrier, filed a traumatic injury claim (Form CA-1) alleging that, on September 13, 2018, she lost her footing and fell to the ground on her left knee and elbow while delivering a packing in the performance of duty. She noted that she suffered an abrasion of the right knee and that her hip and back began hurting after the fall. On the reverse side of the claim form, the employing establishment controverted appellant's claim, noting that she had complained of hip and back pain in the past and there was no evidence that the fall actually occurred. Appellant did not stop work.

In a development letter dated September 21, 2018, 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.

OWCP subsequently received a September 18, 2018 report from Dr. Mark Stephen Wilson, a specialist in pain management, who noted that, on September 13, 2018, appellant scraped her right knee and fell onto her arms while turning to leave a porch and falling off a step. He indicated that appellant had pain in her left lower back and hip that was most painful when walking, bending over, or standing from sitting. Dr. Wilson examined appellant and reviewed x-rays of her lumbar spine. He diagnosed acute traumatic injury resulting in lumbosacral disc displacement with radiculopathy and lumbar spine disc displacement with radiculopathy. Dr. Wilson opined that appellant's conditions were causally connected to the September 13, 2018 employment incident. He recommended physical therapy treatment and listed appellant's work restrictions. In an accompanying duty status report (Form CA-17), Dr. Wilson indicated that appellant was advised to resume work with restrictions.

On a September 26, 2018 Form CA-17, Dr. Wilson diagnosed complete rotator cuff tear and indicated that appellant was advised to resume work with restrictions.

In a letter dated October 10, 2018, the employing establishment controverted appellant's claim, noting that she delayed seeking medical treatment and reporting the employment incident until after an interview with her supervisor discussing how she abandoned her work-related duties on September 13, 2018, the date of the employment incident. It further alleged that fact of injury and causal relationship had not been established.

In a report dated October 17, 2018, Dr. Wilson noted that appellant experienced ongoing pain in her lower back and that she had not been working for the last few weeks. He indicated that appellant received a job offer, but felt that she could not perform the job duties. Dr. Wilson examined appellant and diagnosed acute traumatic injury resulting in lumbosacral disc displacement with radiculopathy and lumbar spine disc displacement with radiculopathy. He recommended physical therapy treatment and magnetic resonance imaging (MRI) scan studies of

appellant's lumbar spine. On an accompanying Form CA-17, Dr. Wilson diagnosed complete rotator cuff tear and indicated that appellant was not advised to resume work.

On a November 15, 2018 Form CA-17, Dr. Aaron McGuire, an osteopathic physician specializing in physical medicine and rehabilitation, diagnosed complete rotator cuff tear and indicated that appellant was not advised to resume work.

By decision dated November 27, 2018, OWCP denied appellant's traumatic injury claim, finding that, while the September 13, 2018 employment incident occurred as alleged, the medical evidence of record was insufficient to establish that her diagnosed conditions were causally related to the accepted employment incident.

OWCP subsequently received a progress report from Dr. McGuire, dated November 15, 2018, which reviewed a November 13, 2018 MRI scan of appellant's left hip and noted that it revealed modest deep soft tissue edema lateral to the left greater trochanter. Dr. McGuire diagnosed acute traumatic injury resulting in lumbosacral disc displacement with radiculopathy and lumbar spine disc displacement with radiculopathy. He indicated that appellant was temporarily, totally disabled from work at that time.

On January 31, 2019 appellant requested reconsideration.

In support of her request, appellant submitted an MRI scan of her lumbar spine, dated June 20, 2018, which revealed posterior disc protrusion and narrowing of the foramina at L4-5 and mild facet joint hypertrophy, modest disc bulging, and mild narrowing of the foramina at L2-3 and L3-4.

In Form CA-17 reports, dated September 13 through December 10, 2018, Dr. McGuire diagnosed rotator cuff tear and listed appellant's work restrictions.

In an October 1, 2018 report, Dr. Eun Ho Ko, a Board-certified family practitioner, noted that appellant fell while delivering a package two to three weeks ago. He indicated that appellant fell on a concrete floor while turning and losing her balance. Dr. Ko examined appellant and diagnosed chronic left-sided low back pain.

In an October 22, 2018 report, Dr. Ko noted that appellant had been placed on temporary total disability. He examined appellant and diagnosed chronic bilateral low back pain with left-sided sciatica.

In Form CA-17 reports dated October 25 and November 26, 2018, Dr. McGuire diagnosed right knee sprain, left knee sprain, and intervertebral disc disorder of the lumbosacral region with radiculopathy. He indicated that appellant was advised to resume work with restrictions.

A November 13, 2018 MRI scan of appellant's left hip revealed modest deep soft tissue edema lateral to the left greater trochanter.

A November 21, 2018 MRI scan of appellant's lumbar spine revealed degenerative disc disease of the lumbar spine and moderate bilateral neuroforaminal stenosis at L4-5.

In a November 26, 2018 report, Dr. McGuire diagnosed intervertebral disc disorder of the lumbosacral region with radiculopathy and sacroiliitis. He indicated that appellant's symptoms first appeared on September 13, 2018, and checked a box marked "Yes" indicating that appellant's conditions were work related. Dr. McGuire noted that appellant had other orthopedic conditions affecting her bilateral shoulders. He indicated that appellant was totally disabled from work commencing September 13, 2018.

In a November 29, 2018 report, Dr. Ko noted that appellant experienced continued low back pain. He examined appellant and diagnosed facet hypertrophy of the lumbar region and foraminal stenosis of the lumbar region.

On January 22, 2019 appellant responded to OWCP's development questionnaire. She noted that she fell due to missing a step. Appellant indicated that she had also fallen in May or June 2018.

In a narrative statement dated January 25, 2019, appellant clarified that she initially fell on her right side before injuring her left knee. She asserted that any preexisting conditions that she had were attributable to injuries she had sustained while at work. Appellant noted that she experienced pain from her right foot to her back if she stepped incorrectly. She indicated that she could not carry more than a few pounds of mail in her right hand without experiencing pain in her back. Appellant also noted that she experienced back pain while leaning and sleeping. She stated that the employing establishment denied her a handicapped parking space and prohibited her from using a walker. Appellant indicated that she experienced constant pain and weakness in her back, legs, left hip, and knees since the employment incident. She noted that she had problems walking for longer periods of time.

By decision dated April 29, 2019, OWCP denied modification of the November 27, 2018 decision.

On October 28, 2019 appellant, through counsel, requested reconsideration.

OWCP subsequently received a May 6, 2019 report from Dr. Britney Else, a Board-certified osteopathic physician specializing in sports medicine, who noted that appellant presented with left hip and lumbar pain. Dr. Else indicated that appellant fell while delivering a package on September 13, 2018, and had been experiencing increased pain since that time. She examined appellant and diagnosed lumbago, lumbar radiculopathy, and hip pain.

In a June 10, 2019 report, Dr. Brian Lovelace, a Board-certified orthopedic surgeon, noted that appellant had been experiencing low back and leg pain since September 2018. He indicated that she experienced ongoing pain that radiated down her left leg. Dr. Lovelace examined appellant and diagnosed chronic left-sided low back pain with left-sided sciatica, left-sided lumbago with sciatica, other chronic pain, and lumbar radiculopathy.

By decision dated January 24, 2020, OWCP denied modification of the April 29, 2019 decision.

## LEGAL PRECEDENT

An employee seeking benefits under FECA<sup>4</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,<sup>5</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>6</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>7</sup>

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 component is whether the employee actually experienced the employment incident that allegedly occurred.<sup>8</sup> The second component is whether the employment incident caused a personal injury.<sup>9</sup>

Causal relationship is a medical question that requires rationalized medical opinion evidence to resolve the issue.<sup>10</sup> 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.<sup>11</sup>

In a case in which 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.<sup>12</sup>

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<sup>4</sup> *Supra* note 2.

<sup>5</sup> *M.O.*, Docket No. 19-1398 (issued August 13, 2020); *S.B.*, Docket No. 17-1779 (issued February 7, 2018); *Joe D. Cameron*, 41 ECAB 153 (1989).

<sup>6</sup> *J.R.*, Docket No. 20-0496 (issued August 13, 2020); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

<sup>7</sup> *B.M.*, Docket No. 19-1341 (issued August 12, 2020); *L.M.*, Docket No. 13-1402 (issued February 7, 2014); *Delores C. Ellyett*, 41 ECAB 992 (1990).

<sup>8</sup> *T.J.*, Docket No. 19-0461 (issued August 11, 2020); *Elaine Pendleton*, 40 ECAB 1143 (1989).

<sup>9</sup> *D.M.*, Docket No. 20-0386 (issued August 10, 2020); *John J. Carlone*, 41 ECAB 354 (1989).

<sup>10</sup> *A.R.*, Docket No. 19-0465 (issued August 10, 2020); *Jacqueline M. Nixon-Steward*, 52 ECAB 140 (2000).

<sup>11</sup> *W.L.*, Docket No. 19-1581 (issued August 5, 2020); *Leslie C. Moore*, 52 ECAB 132 (2000).

<sup>12</sup> Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3e (January 2013); *C.C.*, Docket No. 19-1071 (issued August 26, 2020); *V.W.*, Docket No. 19-1537 (issued May 13, 2020).

## ANALYSIS

The Board finds that appellant has not met her burden of proof to establish a medical condition causally related to the accepted September 13, 2018 employment incident.

In support of her claim, appellant submitted a September 18, 2018 report, from Dr. Wilson who diagnosed acute traumatic injury resulting in lumbosacral disc displacement with radiculopathy and lumbar spine disc displacement with radiculopathy. Dr. Wilson opined that appellant's conditions were causally connected to the accepted September 13, 2018 employment incident. While he supported causal relationship, Dr. Wilson offered only a conclusory statement devoid of medical rationale. He did not explain the medical mechanics of how the accepted employment incident of stepping and falling off a step was competent to cause appellant's diagnosed conditions. The Board has held that a medical report is of limited probative value on a given medical issue if it contains an opinion which is unsupported by medical rationale.<sup>13</sup> Consequently, Dr. Wilson's opinion is insufficient to meet appellant's burden of proof to establish her claim.

Appellant also submitted Form CA-17 reports from Drs. Wilson and McGuire, dated September 18 through December 10, 2018. In these reports, Drs. Wilson and McGuire diagnosed rotator cuff tear and listed appellant's work restrictions. Appellant also submitted Form CA-17 reports, dated October 25 and November 26, 2018, from Dr. McGuire who diagnosed right knee sprain, left knee sprain, and intervertebral disc disorder of the lumbosacral region with radiculopathy. He indicated that appellant could resume work with restrictions. Drs. Wilson and McGuire, however, did not offer an opinion as to whether appellant's diagnosed conditions were causally related to the employment incident in any of these Form CA-17 reports. 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.<sup>14</sup> Accordingly, these reports are insufficient to establish appellant's claim.

Similarly, appellant submitted multiple reports from physicians who did not offer an opinion on causal relationship. In October 1 and 22, 2018 reports, Dr. Ko diagnosed chronic left-sided low back pain and chronic bilateral low back pain with left-sided sciatica. In October 17 and November 15, 2018 reports, Drs. Wilson and McGuire diagnosed acute traumatic injury resulting in lumbosacral disc displacement with radiculopathy and lumbar spine disc displacement with radiculopathy. On November 29, 2018 Dr. Ko diagnosed facet hypertrophy of the lumbar region and foraminal stenosis of the lumbar region. On May 6, 2019 Dr. Else diagnosed lumbago, lumbar radiculopathy, and hip pain. On June 10, 2019 Dr. Lovelace diagnosed chronic left-sided low back pain with left-sided sciatica, left-sided lumbago with sciatica, other chronic pain, and lumbar radiculopathy. The physicians offered no opinion as to whether appellant's diagnosed conditions were causally related to the accepted employment incident in any of these reports.

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<sup>13</sup> *B.M.*, *supra* note 7.

<sup>14</sup> *L.B.*, Docket No. 19-1907 (issued August 14, 2020).

Accordingly, these reports are of no probative value on the issue of causal relationship and are insufficient to establish appellant's claim.<sup>15</sup>

In a report dated November 26, 2018, Dr. McGuire diagnosed intervertebral disc disorder of the lumbosacral region with radiculopathy and sacroiliitis. He indicated that appellant's symptoms first appeared on September 13, 2018 and checked a box marked "Yes" indicating that appellant's conditions were work related. However, the Board has held that when a physician's opinion on causal relationship consists only of checking a box marked "Yes" to a form question, without more by the way of medical rationale, that opinion is of limited probative value and is insufficient to establish causal relationship.<sup>16</sup> As such, this report by Dr. McGuire is also insufficient to establish appellant's claim.

Appellant submitted MRI scans of her lumbar spine, dated June 20 and November 21, 2018, and an MRI scan of her left hip, dated November 13, 2018. The Board has held that diagnostic studies, standing alone, lack probative value on the issue of causal relationship as they do not provide an opinion as to whether the employment incident caused any of the diagnosed conditions.<sup>17</sup> This evidence is therefore insufficient to establish appellant's claim.

As the medical evidence of record does not contain rationalized medical evidence establishing causal relationship between appellant's diagnosed conditions and the accepted September 13, 2018 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 medical condition causally related to the accepted September 13, 2018 employment incident.

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<sup>15</sup> *L.B., id.*

<sup>16</sup> *M.S.*, Docket No. 20-0437 (issued July 14, 2020).

<sup>17</sup> *C.B.*, Docket No. 20-0464 (issued July 21, 2020).

**ORDER**

**IT IS HEREBY ORDERED THAT** the January 24, 2020 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: November 23, 2020  
Washington, DC

Janice B. Askin, Judge  
Employees' Compensation Appeals Board

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

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