United States Department of Labor
Employees' Compensation Appeals Board

T.U., Appellant	)	
and	)	**Docket No. 19-1636**
	)	**Issued: October 29, 2020**
U.S. POSTAL SERVICE, FLAGLER STATION POST OFFICE, Miami, FL, Employer	)	

Appearances:
Matthew Person, for the appellant[1]
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
CHRISTOPHER J. GODFREY, Deputy Chief Judge
PATRICIA H. FITZGERALD, Alternate Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On July 29, 2019 appellant, through counsel, filed a timely appeal from a June 5, 2019 merit decision of the Office of Workers' Compensation Programs (OWCP).[2] Pursuant to the

[1] In all cases in which a representative has been authorized in a matter before the Board, no claim for a fee for legal or other service performed on appeal before the Board is valid unless approved by the Board. 20 C.F.R. § 501.9(e). No contract for a stipulated fee or on a contingent fee basis will be approved by the Board. *Id.* An attorney or representative's collection of a fee without the Board's approval may constitute a misdemeanor, subject to fine or imprisonment for up to one year or both. *Id.*; *see also* 18 U.S.C. § 292. Demands for payment of fees to a representative, prior to approval by the Board, may be reported to appropriate authorities for investigation.

[2] The Board notes that, following the June 5, 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.*

Federal Employees' Compensation Act[3] (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.[4]

ISSUE

The issue is whether appellant has met her burden of proof to establish a diagnosed medical condition causally related to the accepted April 20, 2019 employment incident.

FACTUAL HISTORY

On April 23, 2019 appellant, then a 43-year-old city carrier assistant, filed a traumatic injury claim (Form CA-1) alleging that on April 20, 2019 she injured her back, legs, shoulders, and wrists when she reached for mail located in the front of her long-life vehicle and fell backwards while in the performance of duty. On the reverse side of the claim form appellant's supervisor indicated that appellant did not stop work.

In an April 23, 2019 duty status report (Form CA-17), a health care provider, whose signature is illegible, reported that appellant had no objective findings, but diagnosed multiple contusions.

On April 23, 2019 the employing establishment properly executed an authorization for examination and/or treatment (Form CA-16). The Form CA-16 listed the date of injury as April 20, 2019 and alleged injuries to appellant's head, neck, shoulders, wrists, and right hip. An unsigned April 23, 2019 attending physician's report, Part B of the Form CA-16, indicated that appellant was working in her mail truck, stepped out, and fell to the ground. The report noted diagnoses of contusions of the head, right shoulder, bilateral wrists, and thoracic and lumbar areas of the spine.

OWCP, in an April 30, 2019 development letter, informed appellant of the deficiencies of her claim. It advised her of the type of additional factual and medical evidence needed and afforded her 30 days to provide the necessary evidence.

In an April 30, 2019 Form CA-17 report, a health care provider whose signature is illegible, diagnosed chronic injuries of the neck, shoulders, and wrists.

On May 1, 2019 Dr. Mark D. Chin-Lenn, a Board-certified family practitioner, provided work restrictions for appellant.

By decision dated June 5, 2019, OWCP accepted that the April 20, 2019 employment incident occurred, as alleged. It denied appellant's claim, however, finding that she had not submitted medical evidence establishing a diagnosed condition due to the accepted employment

[3] 5 U.S.C. § 8101 *et seq.*

[4] Appellant timely requested oral argument before the Board. 20 C.F.R. § 501.5(b). By order dated August 26, 2020, the Board exercised its discretion and denied the request, finding that the arguments on appeal could adequately be addressed based on the case record. *Order Denying Request for Oral Argument,* Docket No. 19-1636 (issued August 26, 2020).

incident. It concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

LEGAL PRECEDENT

An employee seeking benefits under FECA 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,[5] 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.[6] 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.[7]

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.[8] The second component is whether the employment incident caused a personal injury.[9]

To establish causal relationship between the condition, as well as any attendant disability claimed and the employment event or incident, the employee must submit rationalized medical opinion evidence.[10] 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 incident identified by the employee.[11] The weight of the medical evidence is determined by its reliability, its probative value, its convincing quality, the care of analysis manifested, and the medical rationale expressed in support of the physician's opinion.[12]

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[5] *S.B.*, Docket No. 17-1779 (issued February 7, 2018); *J.P.*, 59 ECAB 178 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

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

[7] *K.M.*, Docket No. 15-1660 (issued September 16, 2016); *L.M.*, Docket No. 13-1402 (issued February 7, 2014); *Delores C. Ellyett*, 41 ECAB 992 (1990).

[8] *T.M.*, Docket No. 19-0380 (issued June 26, 2019); *Elaine Pendleton*, 40 ECAB 1143 (1989).

[9] *M.H.*, Docket No. 18-1737 (issued March 13, 2019); *John J. Carlone*, 41 ECAB 354 (1989).

[10] *S.A.*, Docket No. 18-0399 (issued October 16, 2018); *Robert G. Morris*, 48 ECAB 238 (1996).

[11] *M.V.*, Docket No. 18-0884 (issued December 28, 2018); *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 345 (1989).

[12] *D.R.*, Docket No. 19-0954 (issued October 25, 2019); *James Mack*, 43 ECAB 321 (1991).

Pursuant to OWCP's procedures, no development of a claim is necessary when the condition reported is a minor one, which can be identified on visual inspection by a lay person (*e.g.*, burn, laceration, insect sting, or animal bite), where the injury was witnessed or reported promptly and no dispute exists, and when no time was lost from work due to disability.[13] In cases where there is a serious injury (motor vehicle accidents, stabbings, shootings, *etc.*), the employing establishment does not dispute the facts of the case, and there are no questionable circumstances, the case may be accepted for a minor condition (such as a laceration in a stabbing case) without a medical report, while simultaneously developing the case for other more serious conditions. This is true even if there is lost time due to such a serious injury.[14]

ANALYSIS

The Board finds appellant has met her burden of proof to establish employment-related contusions of the head, right shoulder, bilateral wrists, and thoracic and lumbar areas of the spine.

In Part B of the April 23, 2019 Form CA-16, the healthcare provider noted that appellant was working in her mail truck, stepped out, and fell to the ground. The Board finds that this history of the accepted April 20, 2019 employment incident was consistent with appellant's account and the diagnosis of contusions of the head, right shoulder, bilateral wrists, and the thoracic and lumbar areas of the spine were visible and consistent with the mechanism of injury. As such, the Board finds that this evidence is sufficient to establish that appellant sustained contusions of the head, right shoulder, bilateral wrists, and thoracic and lumbar areas of the spine causally related to the accepted April 20, 2019 employment incident.[15] Upon return of the case record, OWCP shall make payment and/or reimbursement of medical expenses and wage-loss compensation, if any, with regard to the accepted contusions of the head, right shoulder, bilateral wrists, thoracic and lumbar spine.

The Board further finds, however, that the evidence of record is insufficient to establish appellant's remaining claimed conditions were causally related to the accepted April 20, 2019 employment incident.

On May 1, 2019 Dr. Chin-Lenn listed work restrictions. However, as he failed to address causation, this report is of no probative value and is therefore insufficient to meet appellant's burden of proof.[16]

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[13] Federal (FECA) Procedure Manual, Part 2 -- Claims, *Initial Development of Claims*, Chapter 2.800.6(a) (June 2011); *see S.H.*, Docket No. 20-0113 (issued June 24, 2020) and *K.R.*, Docket No. 19-1452 (issued June 29, 2020) (the Board accepted contusions as causally related to the accepted employment incident).

[14] *See S.K.*, Docket No. 18-1411 (issued July 22, 2020) (the Board accepted visible injuries including bruises as causally related to the accepted employment incident and remanded for development of more serious injuries); *I.H.*, Docket No. 19-1678 (issued April 21, 2020) (the Board accepted abrasions as causally related to the accepted employment incident).

[15] *Supra* notes 13 and 14.

[16] *S.L.*, Docket No. 19-1536 (issued June 26, 2020); *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

Appellant also submitted April 23, and 30, 2019 Form CA-17 reports containing illegible signatures. The Board has held that reports that are unsigned or bear an illegible signature lack proper identification and cannot be considered probative medical evidence as the author cannot be identified as a physician.[17] Therefore, these reports have no probative value and are insufficient to establish the claim.

As the evidence of record does not contain a rationalized opinion from a physician as to causal relationship, the Board finds that appellant has not met her burden proof to establish additional conditions in connection with the April 20, 2019 employment incident.[18]

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 and 20 C.F.R. §§ 10.605 through 10.607.

CONCLUSION

The Board finds that appellant has met her burden of proof to establish contusions to the head, right shoulder, bilateral wrists, and thoracic and lumbar areas of the spine causally related to the accepted April 20, 2019 employment incident. The Board further finds, however, that she has not met her burden of proof to establish additional medical conditions causally related to the accepted April 20, 2019 employment incident.[19]

[17] *R.L.*, Docket No. 20-0284 (issued June 30, 2020); *M.A.*, Docket No. 19-1551 (issued April 30, 2020); *T.O.*, Docket No. 19-1291 (issued December 11, 2019).

[18] *Y.K.*, Docket No. 18-1167 (issued April 2, 2020).

[19] The Board notes that the employing establishment issued a Form CA-16. A completed Form CA-16 authorization may constitute a contract for payment of medical expenses to a medical facility or physician, when properly executed. The form creates a contractual obligation, which does not involve the employee directly, to pay for the cost of the examination or treatment regardless of the action taken on the claim. 20 C.F.R. § 10.300(c); *J.G.*, Docket No. 17-1062 (issued February 13, 2018); *Tracy P. Spillane*, 54 ECAB 608 (2003).

ORDER

IT IS HEREBY ORDERED THAT the June 5, 2019 decision of the Office of Workers' Compensation Programs is reversed in part and affirmed in part. The case is remanded for payment and/or reimbursement of medical expenses and wage-loss compensation in accordance with this decision of the Board.

Issued: October 29, 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