

FACTUAL HISTORY

On June 24, 2019 appellant, then a 57-year-old postmaster, filed a traumatic injury claim (Form CA-1) alleging that on June 19, 2019 she sustained a back injury after she was involved in a motor vehicle accident (MVA) in the performance of duty. She indicated that she was stopped at a red traffic light when her vehicle was struck on the rear passenger side by another vehicle. The employing establishment noted that its knowledge of the facts of the incident were in agreement with the allegations of the appellant. Appellant stopped work on June 20, 2019 and returned on June 21, 2019.

In a development letter dated August 1, 2019, OWCP noted that no documentation had been submitted in support of appellant's claim. It informed her of the type of factual and medical evidence necessary to establish her claim. OWCP afforded appellant 30 days to submit the necessary evidence.

In response, appellant submitted a police report dated June 19, 2019 corroborating that she had been involved in a MVA on that date. In a narrative statement, she indicated that she was approaching a traffic light that was in the process of turning red when she heard a vehicle behind her attempting to stop. When appellant looked in her rearview mirror, she saw a police vehicle approaching and explained that the police vehicle was unable to stop or avoid hitting her vehicle. She noted that, upon impact, her vehicle was pushed into the intersection.

In an injury status report dated June 19, 2019, Sarah Bowen, a nurse practitioner, noted that appellant reported that she had been involved in an MVA in which she was struck from behind while stopped at a red traffic light. She diagnosed lower back pain.

In a July 31, 2019 office visit note, Dr. Aremmia Tanious, a Board-certified neurologist, noted that appellant presented with severe mid-to-lower back pain radiating into her lower extremities with associated numbness and tingling. Appellant reported that her symptoms began when she was rear ended in an MVA in June 2019 while driving her work vehicle. On physical examination Dr. Tanious found tenderness and reduced range of motion in the lumbar area and noted a positive straight leg test, bilaterally. He provided an assessment of severe mid-to-lower back pain following an MVA and also diagnosed insomnia.

In an office visit note dated August 5, 2019, Anny Evans, a nurse practitioner, noted that appellant presented on follow up and reported continued back pain radiating into her legs. She indicated that appellant had difficulty with sleeping and standing due to her pain. Ms. Evans provided diagnoses of low back pain, radiculopathy lumbar region, as well as insomnia.

Appellant further submitted an August 6, 2019 an electromyography and a nerve conduction velocity study of both lower extremities performed by Dr. Tanious, which revealed no abnormalities. The record also contains an August 6, 2019 chart note by Dr. Tanious, discussing appellant's history of injury and treatment. Dr. Tanious diagnosed mild lumbar spondylosis with disc bulges at L4-5 and L5-S1. He recommended physical therapy.

By decision dated September 5, 2019, OWCP accepted that the June 19, 2019 employment incident occurred as alleged, but denied appellant's claim, finding that she had not established a

diagnosed medical condition causally related to the accepted employment incident and, thus, the requirements had not been met for establishing 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,³ 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.⁴ 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.⁵

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.⁶ The second component is whether the employment incident caused a personal injury.⁷

Rationalized medical opinion evidence is required to establish causal relationship. The opinion of the physician must be based on a complete factual and medical background, 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.⁸

ANALYSIS

The Board finds that this case is not in posture for decision.

OWCP denied appellant's traumatic injury claim finding that the medical evidence of record lacked a firm diagnosis of an injury connected to the accepted June 19, 2019 employment incident.

In his August 6, 2019 chart note, Dr. Tanious diagnosed mild lumbar spondylosis with disc bulges at L4-5 and L5-S1. He had treated appellant for back symptoms related to the accepted

³ *S.B.*, Docket No. 17-1779 (issued February 7, 2018); *J.P.*, 59 ECAB 178 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

⁴ *J.M.*, Docket No. 17-0284 (issued February 7, 2018); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

⁵ *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).

⁶ *B.P.*, Docket No. 16-1549 (issued January 18, 2017); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁷ *M.H.*, Docket No. 18-1737 (issued March 13, 2019); *John J. Carlone*, 41 ECAB 354 (1989).

⁸ *J.L.*, Docket No. 18-1804 (issued April 12, 2019).

July 19, 2019 MVA, and included a detailed history of injury, objective findings, and diagnostic test results in his July 31 and August 6, 2019 reports. The Board, therefore, finds that the diagnosis of mild lumbar spondylosis with disc bulges constitutes a medical diagnosis in connection with the accepted June 19, 2019 employment incident.⁹

As the medical evidence of record establishes a diagnosed condition, the case must be remanded for consideration of the medical evidence with regard to the issue of causal relationship. Following any further development as deemed necessary, OWCP shall issue a *de novo* decision.¹⁰

CONCLUSION

The Board finds that this case is not in posture for decision.

⁹ *M.K.*, Docket No. 20-0293 (issued June 22, 2020); *Y.W.*, Docket No. 19-1877 (issued April 30, 2020).

¹⁰ *Id.*

ORDER

IT IS HEREBY ORDERED THAT the September 5, 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: October 16, 2020
Washington, DC

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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