

**United States Department of Labor  
Employees' Compensation Appeals Board**

I.B., Appellant	)	
	)	
and	)	Docket No. 19-1960
	)	Issued: September 4, 2020
U.S. POSTAL SERVICE, POST OFFICE,	)	
Highland Park, IL, Employer	)	
	)	

*Appearances:*  
*Appellant, pro se*  
*Office of Solicitor, for the Director*

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:  
ALEC J. KOROMILAS, Chief Judge  
JANICE B. ASKIN, Judge  
PATRICIA H. FITZGERALD, Alternate Judge

**JURISDICTION**

On September 25, 2019 appellant filed a timely appeal from a September 4, 2019 merit decision of the Office of Workers' Compensation Programs (OWCP).<sup>1</sup> Pursuant to the Federal Employees' Compensation Act<sup>2</sup> (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.<sup>3</sup>

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<sup>1</sup> Appellant also filed a timely request for oral argument pursuant to section 501.5(b) of the Board's *Rules of Procedure*. 20 C.F.R. § 501.5(b). By order issued on August 31, 2020, the Board exercised its discretion and denied the request as the matter could be adequately addressed based on a review of the case record. *Order Denying Request for Oral Argument*, Docket No. 19-1960 (issued August 31, 2020).

<sup>2</sup> 5 U.S.C. § 8101 *et seq.*

<sup>3</sup> The Board notes that, following the September 4, 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.*

## ISSUE

The issue is whether appellant has met her burden of proof to establish a medical condition causally related to the accepted July 10, 2019 employment incident.

## FACTUAL HISTORY

On July 18, 2019 appellant, then a 23-year-old city carrier assistant, filed a traumatic injury claim (Form CA-1) alleging that on July 10, 2019 she experienced lower and mid-back pain and a pulling sensation in the lower/mid-part of her neck when she was involved in a motor vehicle accident while in the performance of duty.

OWCP received a July 18, 2019 duty status report (Form CA-17) from a physician with an illegible signature. The form noted a date of injury of July 10, 2019 and listed diagnoses of neck, shoulder, and low back pain. Appellant was advised not to resume work.

In an August 2, 2019 development letter, OWCP informed appellant that the evidence submitted was insufficient to establish her claim. It advised her of the type of factual and medical evidence necessary to establish her claim and provided a questionnaire for completion. OWCP afforded appellant 30 days to provide the necessary evidence. No evidence was received.

By decision dated September 4, 2019, OWCP accepted that the July 10, 2019 employment incident occurred as alleged, but denied appellant's traumatic injury claim because the evidence of record did not include medical evidence containing a diagnosis in connection with the accepted employment incident. Accordingly, it found that she had not established the medical component of fact of injury.

## 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 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>

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<sup>4</sup> *Supra* note 1.

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

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

<sup>7</sup> *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).

In order to determine whether a federal employee has sustained a traumatic injury in the performance of duty, OWCP must first determine whether fact of injury has been established.<sup>8</sup> 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.<sup>9</sup> Second, the employee must submit evidence, generally only in the form of probative medical evidence, to establish that the employment incident caused a personal injury.<sup>10</sup>

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.<sup>11</sup> Neither the mere fact that a disease or condition manifests itself during a period of employment, nor the belief that the disease or condition was caused or aggravated by employment factors or incidents is sufficient to establish causal relationship.

### ANALYSIS

The Board finds that appellant has not met her burden of proof to establish a medical condition causally related to the accepted July 10, 2019 employment incident.<sup>12</sup>

The only medical evidence submitted was a July 18, 2019 Form CA-17 from a physician with an illegible signature. The Board has held that reports that are unsigned or that bear illegible signatures cannot be considered as probative medical evidence because they lack proper identification.<sup>13</sup> This report, therefore, lacks probative value to establish appellant's claim.

As the medical evidence of record is insufficient to establish a medical diagnosis causally related to the accepted July 10, 2019 employment incident, the Board finds that appellant has not met her burden of proof.

On appeal appellant argues that she had to switch doctors and that the new doctor did not allow her to start physical therapy right away. However, it is her burden of proof to establish that an injury was sustained in the performance of duty and that any disability or medical condition for

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<sup>8</sup> *D.B.*, Docket No. 18-1348 (issued January 4, 2019); *S.P.*, 59 ECAB 184 (2007).

<sup>9</sup> *D.S.*, Docket No. 17-1422 (issued November 9, 2017); *Bonnie A. Contreras*, 57 ECAB 364 (2006).

<sup>10</sup> *B.M.*, Docket No. 17-0796 (issued July 5, 2018); *David Apgar*, 57 ECAB 137 (2005); *John J. Carlone*, 41 ECAB 354 (1989).

<sup>11</sup> *S.S.*, Docket No. 18-1488 (issued March 11 2019); *Dennis M. Mascarenas*, 49 ECAB 215 (1997).

<sup>12</sup> *D.S.*, Docket No. 19-1641 (issued July 16, 2020).

<sup>13</sup> *G.N.*, Docket No. 19-0184 (issued May 29, 2019); *Thomas L. Agee*, 56 ECAB 465 (2005); *Richard F. Williams*, 55 ECAB 343 (2004).

which compensation is claimed is causally related to the employment injury.<sup>14</sup> As explained above, appellant 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 July 10, 2019 employment incident.

**ORDER**

**IT IS HEREBY ORDERED THAT** the September 4, 2019 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: September 4, 2020  
Washington, DC

Alec J. Koromilas, Chief Judge  
Employees' Compensation Appeals Board

Janice B. Askin, Judge  
Employees' Compensation Appeals Board

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

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<sup>14</sup> *Supra* note 6.