



## **FACTUAL HISTORY**

On November 21, 2019 appellant, then a 30-year-old city letter carrier, filed a traumatic injury claim (Form CA-1) alleging that on that date, she sustained a right back rib bruise when she was struck on the back by a hamper while in the performance of duty. She stopped work on that date. Appellant's supervisor, L.M., signed the form, certifying that the information provided by appellant on the form was true to the best of his knowledge.

In an employing establishment accident report dated December 17, 2019, A.S., a supervisor at the employing establishment, indicated that on November 21, 2019, appellant was loading parcels into her vehicle for delivery, bent down between two wires to retrieve packages, and was struck in the middle back by a hamper being pushed by another employee. She noted that as a result, appellant sustained contusions to the middle back. Under the heading "Injury/Illness" the condition was described as a "Contusion -- Bruise with Skin Intact" and under the heading "Body Part" was described as affecting the middle back and right back rib.

In progress notes dated November 21, 2019, Ricardo Garza, a family nurse practitioner, examined appellant for complaints of right rib pain. Appellant recounted to Mr. Garza that she had been squatting to perform work when someone pushed a cart into her, striking her right ribs. On physical examination, Mr. Garza observed point tenderness to the lateral posterior ribs. An x-ray of the right ribs obtained on the date of examination demonstrated no evidence of rib fracture. Mr. Garza diagnosed right rib contusion.

In a duty status report (Form CA-17) dated December 4, 2019, Dr. Jill Schroeder, a family medicine specialist, diagnosed anterolateral back pain without sciatica. She listed appellant's date of injury as November 21, 2019 and stated that the injury occurred when appellant was struck in the back by a rolling hamper. Dr. Schroeder recommended that appellant could return to work on December 9, 2019 with work restrictions of lifting no more than 10 pounds intermittently.

On December 11, 2019 appellant resigned from her position with the employing establishment.

In a development letter dated January 6, 2020, OWCP informed appellant that she had submitted insufficient factual and medical evidence to establish her claim. It advised her of the type of evidence needed and provided a questionnaire for her completion. OWCP afforded appellant 30 days to respond.

In progress notes dated November 25, 2019, Kerry Gillette, certified physician assistant, diagnosed acute bilateral low back pain without sciatica, which she described as secondary to a work injury.

On December 3, 2019 Dr. Katrina Terry, a Board-certified family practitioner, diagnosed acute bilateral low back pain without sciatica and left-sided sciatica. She referred appellant to physical therapy and for chiropractic treatment, explaining that appellant had bilateral back pain with some numbness on the right and chronic tingling on the left.

In progress notes dated December 4, 2019 and January 10, 2020, Dr. Schroeder examined appellant for back pain. Appellant was able to walk and drive, but twisting, bending, and lifting

remained painful. Dr. Schroeder diagnosed an acute back injury, related to a work injury. She again recommended physical therapy and chiropractic treatment.

By decision dated February 18, 2020, OWCP denied appellant's claim, finding that she had not submitted sufficient evidence to establish a causal relationship between her diagnosed left-sided sciatica and the accepted incident of November 21, 2019.

### **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 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 a 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 incident identified by the employee.<sup>9</sup>

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

<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).

Pursuant to OWCP's procedures, no development of a claim is necessary where 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).<sup>10</sup> No medical report is required to establish a minor condition such as a laceration.<sup>11</sup>

### ANALYSIS

The Board finds that appellant has met her burden of proof to establish a contusion/bruise to the middle back/right back rib causally related to the accepted November 21, 2019 employment incident.

The Board notes that, pursuant to Federal (FECA) Procedure Manual, Part 2 -- Claims, *Initial Development of Claims*, Chapter 2.800.6(a) (June 2011), if a condition reported is a minor one, such as a burn, laceration, insect sting, or animal bite, which can be identified on visual inspection by a lay person, a case may be accepted without a medical report and no development of the case need be undertaken, if the injury was witnessed or reported promptly, and no dispute exists as to the occurrence of an injury; and no time was lost from work due to disability.<sup>12</sup> This section of OWCP's procedures further states that in cases of serious injury (motor vehicle accidents, stabbings, shootings, *etc.*) if 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 laceration, 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.<sup>13</sup>

The record contains a December 17, 2019 form accident report from A.S., a supervisor at the employing establishment. The supervisor described the November 21, 2019 incident and noted that as a result appellant sustained contusions to the middle back. Under the heading "Injury/Illness" the condition was described as a "Contusion -- Bruise with Skin Intact" and under the heading "Body Part" was described as affecting the middle back and right back rib. In progress notes dated November 21, 2019, Mr. Garza, a family nurse practitioner, diagnosed right rib contusion. The Board finds that this information, taken together, is sufficient to meet the standards set forth in OWCP's procedures for accepting a contusion/bruise to the middle back/right back rib without a medical report from a qualified physician. Based on the description of the condition, it was a minor condition identifiable on visual inspection by a lay person.<sup>14</sup> The signature of L.M., appellant's supervisor, on the November 21, 2019 Form CA-1 and the December 17, 2019 form accident report prepared by A.S., a supervisor at the employing establishment, clearly indicate that appellant's contusion/bruise to the middle back/right back rib had been viewed and accepted as

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<sup>10</sup> Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.800.6(a) (June 2011).

<sup>11</sup> *Id.*; see *B.C.*, Docket No. 20-0498 (issued August 27, 2020) (the Board accepted lumbar contusion as causally related to the accepted employment incident); *S.H.*, Docket No. 20-0113 (issued June 24, 2020) (the Board accepted a right ankle contusion as causally related to the accepted employment incident); *M.A.*, Docket No. 13-1630 (issued June 18, 2014).

<sup>12</sup> *Supra* note 10.

<sup>13</sup> *Id.*

<sup>14</sup> See *supra* note 11.

work related, and that the incident alleged by appellant to have taken place on November 21, 2019 occurred in the performance of duty. The November 21, 2019 progress notes from Mr. Garza support the existence of a right rib contusion capable of being identified on visual inspection by a lay person.

Accordingly, the February 18, 2020 decision is reversed to find that the claim is accepted for contusion/bruise to the middle back/right back rib. Upon return of the case record OWCP shall make payment and/or reimbursement of medical expenses with regard to the accepted contusion/bruise to the middle back/right back rib.<sup>15</sup>

The Board also finds that appellant has not established additional compensable diagnosed conditions or entitlement to wage-loss compensation for disability due to the condition of contusion/bruise to the middle back/right back rib. The record indicates that appellant did not return to work immediately following the incident of November 21, 2019 and that she has not alleged any specific dates of disability due to this condition. She submitted a December 3, 2019 report from Dr. Terry, who diagnosed acute bilateral low back pain without sciatica and left-sided sciatica. Appellant submitted a Form CA-17 dated December 4, 2019 from Dr. Schroeder, in which she diagnosed anterolateral back pain without sciatica and recommended that appellant could return to work with restrictions. On December 4, 2019 Dr. Schroeder diagnosed an acute back injury, and on December 10, 2019 she diagnosed low back pain, without sciatica. The Board notes that appellant has not established additional compensable diagnoses of anterolateral back pain, acute bilateral low back pain, left-sided sciatica, or acute back injury. The Board has consistently held that pain is a symptom, not a compensable medical diagnosis.<sup>16</sup> As to acute back injury, the Board has previously explained that a purported diagnosis of “injury” is not a firm diagnosis.<sup>17</sup> As appellant did not submit any medical evidence from a qualified physician containing a compensable diagnosis addressing specific dates of disability, the Board finds that she has not established entitlement to wage-loss compensation based upon her accepted condition of contusion/bruise to the middle back/right back rib.<sup>18</sup>

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 met her burden of proof to establish a contusion/bruise to the middle back/right back rib causally related to the accepted November 21, 2019 employment incident. The Board further finds that she has not established disability causally related to the accepted November 21, 2019 employment injury.

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<sup>15</sup> *B.C.*, *supra* note 11.

<sup>16</sup> *See P.S.*, Docket No. 12-1601 (issued January 2, 2013); *C.F.*, Docket No. 08-1102 (issued October 10, 2008).

<sup>17</sup> *See J.L.*, Docket No. 18-1804 (issued April 12, 2019).

<sup>18</sup> *See M.A.*, *supra* note 11.

**ORDER**

**IT IS HEREBY ORDERED THAT** the February 18, 2020 decision of the Office of Workers' Compensation Programs is reversed in part and affirmed in part.

Issued: January 12, 2021  
Washington, DC

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

Janice B. Askin, Judge  
Employees' Compensation Appeals Board

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