



## **FACTUAL HISTORY**

This case has previously been before the Board.<sup>2</sup> The facts and circumstances as set forth in the Board's prior order are incorporated herein by reference. The relevant facts are as follows.

On February 12, 2019 appellant, then a 48-year-old customer care agent, filed an occupational disease claim (Form CA-2) alleging that he experienced lower left side back pain due to factors of his federal employment, including sitting for 8 to 10 hours a day. He related that when he went on vacation his pain dissipated. Appellant noted that in previous jobs where he did not sit down, he did not experience pain. On the reverse side of the claim form, the employing establishment controverted appellant's claim, noting that appellant had a second job.

In a February 12, 2019 narrative statement, appellant related that in October 2018, two weeks after he started working at the employing establishment, he felt a sensation in the left side of the lower back and numbness radiating down his leg. He again asserted that he was not used to sitting while working and while his pain dissipated during vacation, it returned when he returned to work. Appellant noted that he tried to walk outside during his breaks and at lunch, which reduced his pain.

In a development letter dated February 28, 2019, OWCP informed appellant that additional evidence was needed to establish his claim. It advised him of the type of medical evidence necessary to establish his claim and afforded him 30 days to submit the necessary evidence.

A November 21, 2018 medical report containing an illegible signature indicated that appellant complained of low back and left buttocks pain that radiated down into his calf. A physical examination was conducted and appellant's diagnosis was listed as sciatica.

OWCP received December 20, 2018 and February 11, 2019 progress notes, which contained illegible signatures.

By decision dated April 3, 2019, OWCP denied appellant's occupational disease claim, finding that the evidence of record was insufficient to establish that a medical condition was diagnosed in connection to the accepted factors of his federal employment. It concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

OWCP thereafter received a November 21, 2018 health questionnaire with an illegible signature.

On April 16, 2019 appellant filed an appeal with the Board. By order dated January 2, 2020, the Board set aside OWCP's April 3, 2019 decision denying appellant's claim, finding that OWCP failed to review all of the evidence of record submitted at the time of the April 3, 2019 decision. The Board remanded the case to OWCP for further development, to be followed by a *de novo* decision.<sup>3</sup>

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<sup>2</sup> *Order Remanding Case*, Docket No. 19-1080 (issued January 2, 2020).

<sup>3</sup> *Id.*

Following the Board's remand order, by decision dated March 19, 2020, OWCP again denied appellant's occupational disease claim, finding that the evidence of record was insufficient to establish that a medical condition was diagnosed in connection to his accepted factors of federal employment. It concluded 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,<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 establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; (2) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; and (3) medical evidence establishing that the diagnosed condition is causally related to the identified employment factors.<sup>7</sup>

Causal relationship is a medical question that requires rationalized medical opinion evidence to resolve the issue.<sup>8</sup> A physician's opinion on whether there is causal relationship between the diagnosed condition and the implicated employment factor(s) must be based on a complete factual and medical background.<sup>9</sup> Additionally, the physician's opinion must be expressed in terms of a reasonable degree of medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and appellant's specific employment factor(s).<sup>10</sup>

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<sup>4</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>5</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>6</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).

<sup>7</sup> *R.G.*, Docket No. 19-0233 (issued July 16, 2019). *See also Roy L. Humphrey*, 57 ECAB 238, 241 (2005); *Ruby I. Fish*, 46 ECAB 276, 279 (1994); *Victor J. Woodhams*, 41 ECAB 345 (1989).

<sup>8</sup> *T.H.*, 59 ECAB 388, 393 (2008); *Robert G. Morris*, 48 ECAB 238 (1996).

<sup>9</sup> *M.V.*, Docket No. 18-0884 (issued December 28, 2018).

<sup>10</sup> *Id.*; *Victor J. Woodhams*, *supra* note 7.

### ANALYSIS

The Board finds that appellant has not met his burden of proof to establish a diagnosed medical condition causally related to his accepted factors of federal employment.

All of the medical evidence submitted, including the November 21, 2018 reports, the December 20, 2018 and February 11, 2019 progress reports, and the February 11, 2019 prescription, contained an illegible signature. 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.<sup>11</sup> Therefore, these documents have no probative value and are insufficient to establish the claim.

Accordingly, as there is no rationalized medical evidence of record establishing a diagnosed medical condition causally related to appellant's accepted factors of federal employment, the Board finds that he has not met his 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 his burden of proof to establish a diagnosed medical condition causally related to his accepted factors of federal employment.

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<sup>11</sup> *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).

**ORDER**

**IT IS HEREBY ORDERED THAT** the March 19, 2020 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: June 3, 2021  
Washington, DC

Alec J. Koromilas, 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