United States Department of Labor
Employees' Compensation Appeals Board

C.H., Appellant	)	
and	)	**Docket No. 19-1127**
	)	**Issued: March 1, 2021**
U.S. POSTAL SERVICE, POST OFFICE, Lithonia, GA, 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
CHRISTOPHER J. GODFREY, Deputy Chief Judge
JANICE B. ASKIN, Judge

JURISDICTION

On April 23, 2019 appellant filed a timely appeal from a March 27, 2019 merit decision of the Office of Workers' Compensation Programs (OWCP).[1] Pursuant to the Federal Employees' Compensation Act[2] (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

ISSUE

The issue is whether appellant has met her burden of proof to establish a diagnosed medical condition causally related to the accepted February 6, 2019 employment incident.

[1] Together with her appeal request, appellant submitted a timely request for oral argument pursuant to 20 C.F.R. § 501.5(b). After exercising its discretion, by order dated June 1, 2020, the Board denied the request as appellant's arguments on appeal could be adequately addressed in a decision based on a review of the case as submitted on the record. *Order Denying Request for Oral Argument*, Docket No. 19-1127 (issued June 1, 2020).

[2] 5 U.S.C. § 8101 *et seq.*

FACTUAL HISTORY

On February 6, 2019 appellant, then a 29-year-old rural carrier associate, filed a traumatic injury claim (Form CA-1) alleging that, on that date at 12:38 p.m., she sustained a head injury when her postal vehicle was struck from the rear by another vehicle while in the performance of duty. She stopped work on February 7, 2019.

Appellant submitted a February 7, 2019 note in which a provider with an illegible signature advised that appellant was under his or her care for a motor vehicle accident. The provider diagnosed sprains of ligaments of the cervical/thoracic spine, acute post-traumatic headache (not intractable), and back muscle spasm, and indicated that appellant was totally disabled from February 7 through 10, 2019. Restrictions of no lifting, bending, crouching, pushing, and pulling were provided.

In a February 11, 2019 note, Dr. Brandon Williams, a chiropractor, reported that appellant was under his care for a motor vehicle accident. He diagnosed sprains of ligaments of the cervical/thoracic spine, acute post-traumatic headache (not intractable), and muscle contracture (unspecified site), and noted that she was totally disabled from February 11 through 15, 2019.

By development letter dated February 21, 2019, OWCP requested that appellant submit additional evidence in support of her claim, including a qualified physician's opinion, which established that the reported February 6, 2019 employment incident caused, aggravated, or precipitated a diagnosed medical condition.[3] It provided a questionnaire for her completion, which posed a series of questions regarding the reported February 6, 2019 employment incident and the medical treatment she received for her claimed injury. In a separate February 21, 2019 development letter, OWCP requested that the employing establishment respond to a questionnaire, which posed questions regarding appellant's work activities on February 6, 2019. It afforded both parties 30 days to respond.

On March 26, 2019 OWCP received the employing establishment's undated and unsigned questionnaire response in which it was noted that appellant was delivering mail in a postal vehicle at the time of the February 6, 2019 accident. An unsigned "accident investigation worksheet" from the employing establishment, dated February 13, 2019, indicated that a vehicular accident occurred at 12:58 p.m. on February 6, 2019 which caused scratches on the rear bumper of the postal vehicle driven by appellant.[4] It was reported that appellant had a bruise with intact skin on her head. An attached sketch shows her vehicle being struck from behind by another vehicle. In notes dated between February 20 and 22, 2019, an OWCP-sponsored continuation of pay nurse indicated that appellant reported that on February 6, 2019 her postal vehicle was rear-ended by another vehicle when she was delivering mail.

Appellant submitted copies of the previously submitted February 7, 2019 note from a person with an illegible signature and the February 11, 2019 note from Dr. Williams. However,

[3] OWCP informed appellant that a chiropractor did not qualify as a physician under FECA unless there was a spinal subluxation as demonstrated by x-ray to exist.

[4] The report advises that a telephone call regarding the accident was received at 12:45 p.m. on February 6, 2019.

both these documents now bore the additional signature of Dr. Dawn Wilson, a Board-certified medicine and rehabilitation physician.

In a February 27, 2019 attending physician's report (Form CA-2), Dr. Williams listed the date of injury as February 6, 2019 and history of injury as "[complains of] injuries sustained in motor vehicle collision." He diagnosed sprains of the cervical/thoracic/lumbar spine, traumatic headache, and muscle spasm[5] and determined that appellant was totally disabled from February 7 through March 8, 2019. Dr. Williams checked a box marked "Yes" indicating that the diagnosed conditions were related to the reported employment incident and added the notation, "Injuries are a result of motor vehicle collision in employment vehicle."

In a March 1, 2019 note, Dr. Wilson advised that appellant was under her care for a motor vehicle accident. She diagnosed sprains of ligaments of the cervical/thoracic spine, acute post-traumatic headache (not intractable), and muscle contracture (unspecified site), and noted that appellant was totally disabled from February 15 through March 1, 2019. In a March 5, 2019 note, Dr. Wilson indicated that appellant should be excused from "work/school" from February 7 through April 5, 2019 and that appellant could return to work without limitations on April 6, 2019.

By decision dated March 27, 2019, OWCP accepted the occurrence of the February 6, 2019 employment incident in the form of a motor vehicle accident. However, it denied appellant's claim for a February 6, 2019 employment injury on the basis that she had not established the medical aspect of fact of injury. OWCP noted, "In any of the medical documentation that was signed by a qualified medical physician, there is nowhere that it was shown that the medical physician indicated that on February 6, 2019 a specific work-related injury caused, aggravated, or precipitated any medical condition at all." It found that the requirements had not been met for establishing that appellant sustained 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 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

[5] Dr. Williams advised with respect to x-rays of an unspecified date, "No indication of fracture, reduced cervical spine curve."

[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).

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]

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.[10] 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.[11]

Under FECA, the term "physician" includes chiropractors only to the extent that their reimbursable services are limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by x-rays to exist.[12] OWCP's regulations at 20 C.F.R. § 10.5(bb) have defined subluxation as an incomplete dislocation, off-centering, misalignment, fixation, or abnormal spacing of the vertebrae which must be demonstrable on an x-ray film to an individual trained in the reading of x-rays.[13]

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish an injury causally related to the accepted February 6, 2019 employment incident.

In support of her claim for a February 6, 2019 employment injury, appellant submitted a February 7, 2019 note in which Dr. Wilson advised that appellant was under her care for a motor vehicle accident. Dr. Wilson diagnosed sprains of ligaments of the cervical/thoracic spine, acute post-traumatic headache (not intractable), and back muscle spasm, and indicated that appellant was totally disabled from February 7 through 10, 2019. In a February 11, 2019 note, she again noted that appellant was under her care for a motor vehicle accident. Dr. Wilson diagnosed sprains of ligaments of the cervical/thoracic spine, acute post-traumatic headache (not intractable), and muscle contracture (unspecified site), and advised that appellant was totally disabled from February 11 through 15, 2019. In a March 1, 2019 note, she continued to report that appellant was under her care for a motor vehicle accident and provided the same diagnoses as described in her February 11, 2019 note. Dr. Wilson indicated that appellant was totally disabled from February 15 through March 1, 2019. In a March 5, 2019 note, she advised that appellant should be excused

[8] *B.P.*, Docket No. 16-1549 (issued January 18, 2017); *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.S.*, Docket No. 18-1488 (issued March 11, 2019).

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

[12] 5 U.S.C. § 8101(2). *See also A.C.*, Docket No. 19-1950 (issued May 27, 2020).

[13] 20 C.F.R. § 10.5(bb).

from "work/school" from February 7 through April 5, 2019 and that she could return to work without limitations on April 6, 2019.

The Board finds that these reports are of no probative value regarding appellant's claim for a February 6, 2019 employment injury because Dr. Wilson did not provide a clear opinion that the diagnosed conditions were causally related to the accepted February 6, 2019 employment incident. Although Dr. Wilson generally noted in several of the reports that she was treating appellant for a motor vehicle accident, she did not specifically reference or describe the February 6, 2019 employment-related accident or relate the identified diagnosed conditions to that accepted employment incident. The Board has held that medical evidence that does not offer a clear opinion regarding the cause of an employee's condition or disability is of no probative value on the issue of causal relationship.[14] Therefore, Dr. Wilson's reports are insufficient to establish appellant's claim.

Appellant also submitted a February 27, 2019 attending physician report from Dr. Williams, a chiropractor. However, Dr. William's report is of no probative value regarding her traumatic injury claim. He is not considered to be a physician within the meaning of FECA and his report does not constitute probative medical evidence because he did not diagnose a spinal subluxation as demonstrated by x-rays to exist.[15] Therefore, Dr. William's February 27, 2019 report is insufficient to establish appellant's claim.

As the medical evidence of record does not contain a medical report relating a specific diagnosed medical condition to the accepted February 6, 2019 employment incident, the Board finds that appellant has not met her burden of proof.[16]

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 an injury causally related to the accepted February 6, 2019 employment incident.

[14] *See L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

[15] *See supra* notes 12 and 13.

[16] The Board notes that OWCP properly found that appellant had not established the medical aspect of fact of injury. *See supra* notes 8 and 9.

ORDER

IT IS HEREBY ORDERED THAT the March 27, 2019 decision of the Office of Workers' Compensation Programs is affirmed.[17]

Issued: March 1, 2021
Washington, DC

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

[17] Christopher J. Godfrey, Deputy Chief Judge, who participated in the preparation of the decision, was no longer a member of the Board after January 20, 2021.