United States Department of Labor
Employees' Compensation Appeals Board

D.S., Appellant	)	
and	)	**Docket No. 21-0037**
	)	**Issued: May 27, 2021**
U.S. POSTAL SERVICE, POST OFFICE, Louisville, KY, 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 October 9, 2020 appellant filed a timely appeal from a September 29, 2020 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act[1] (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 his burden of proof to establish a medical condition causally related to the accepted June 18, 2020 employment incident.

FACTUAL HISTORY

On June 29, 2020 appellant, then a 37-year-old city carrier, filed a traumatic injury claim (Form CA-1) alleging that on June 18, 2020 he became dehydrated due to the heat and developed cramping as well as elevated creatine kinase levels in his kidneys while in the performance of duty.

[1] 5 U.S.C. § 8101 *et seq.*

On the reverse side of the claim form, appellant's supervisor indicated that he had stopped work on June 20, 2020.

In support of his claim, appellant submitted a report dated June 20, 2020 from Dr. Alicia B. Fernandez, Board-certified in internal medicine. Dr. Fernandez diagnosed appellant with rhabdomyolysis. She related that he could return to work on June 24, 2020.

In a hospital discharge record dated June 21, 2020, Dr. Fernandez noted that appellant presented on June 20, 2020 with muscle cramps in the back of his thighs and legs, and arms. She noted that appellant's symptoms started two days prior as he was finishing his work shift. Appellant related that he had been very hot and sweating. Dr. Fernandez noted that salt had left his body as his sweat dried. Appellant noted that he had not taken water on his mail route like he normally did. Dr. Fernandez noted a diagnosis of rhabdomyolysis.

In notes dated June 25, 2020, Dr. Dennis Sparks, Board-certified in family practice, related that appellant was seen for rhabdomyolysis, and had been referred to a rheumatologist. He prescribed medication for irritable bowel syndrome, with diarrhea.

OWCP also received a duty status report (Form CA-17) dated June 25, 2020 from Dr. Sparks. Dr. Sparks indicated by checking a box marked "Yes" that appellant's diagnosis was due to an injury on the job.

In a letter dated June 30, 2020, an employing establishment manager, J.J., controverted appellant's claim. She reported that appellant carried mail on June 17, 18, and 19, 2020 and the high temperature on those days was 72, 81, and 82 respectively. J.J. also related that appellant claimed he could not tolerate the heat as it was hard on his kidneys; however, appellant had experienced health issues involving his kidneys for over a year. She related that she had suggested appellant file a Form CA-2 due to his continued health issues.

In an e-mail dated July 8, 2020, appellant's supervisor, J.C. stated that he did not believe that appellant's injury was due to two or three days of work. He noted that appellant related that he did not feel well due to working late the previous day and he also called out the following day.

In a development letter dated July 17, 2020, OWCP advised appellant that additional factual and medical evidence was necessary to establish his claim. It requested that he submit a narrative medical report from his attending physician which provided a medical explanation as to how the reported work incident caused or aggravated a medical condition. OWCP also provided appellant a questionnaire for completion. It afforded appellant 30 days to submit the necessary evidence.

In response, appellant submitted a return to work form dated July 9, 2020 from Dr. Sparks who indicated that appellant was to remain off work from July 9 through August 9, 2020.

OWCP received several articles regarding heat-related illnesses as well as the weather report for Louisville, KY for the month of June 2020.

In a letter dated July 22, 2020, appellant's coworker, K.S. related that on June 19, 2020, appellant noted that he had cramps throughout the night. She told appellant that he should go to the hospital, appellant thereafter learned that he had suffered a heat-related injury.

Appellant submitted weather records indicating that on June 17, 28, and 19, 2020 the outdoor temperatures reached 86, 86, and 89 degrees.

In a report dated July 14, 2020, Dr. Sparks noted that appellant had been seen in a hospital emergency room on June 20, 2020 and had high creatine phosphokinase. Appellant attempted to return to work, but he developed persistent weakness and muscle pain. Dr. Sparks referred appellant to a rheumatologist.

On July 28, 2020 Dr. Sparks reported that appellant was initially seen in the emergency room on June 20, 2020 with exertional rhabdomyolysis and had a creatine phosphokinase greater than 1400. He related that appellant had persistent muscle cramping when he performed strenuous activity in the heat. Dr. Sparks indicated that appellant was at an increased risk if he returned to work.

In a letter dated August 4, 2020, Frances Sparks, a registered nurse, noted that appellant was seen in Dr. Sparks' office on June 25, July 14, and July 28, 2020 for a heat-related injury that followed his June 20, 2020 emergency room visit. She indicated that appellant's injury was consistent with exertional heat cramps escalating into exertional rhabdomyolysis. Ms. Sparks stated that appellant's other problems were not a factor in his injury as he had no prior heat stress-related injury or renal impairment.

By decision dated August 21, 2020, OWCP accepted that the June 18, 2020 incident occurred as alleged, but denied appellant's claim as the medical evidence of record was insufficient to establish causal relationship between a diagnosed medical condition and the accepted employment incident.

OWCP received a form report dated August 10, 2020 from Dr. Sparks wherein he indicated that appellant could return to work.

On September 23, 2020 appellant requested reconsideration and submitted additional medical evidence.

In a September 19, 2020 report, Dr. Sparks noted that appellant was initially seen in the emergency room on June 20, 2020 with exertional rhabdomyolysis. He related that appellant was at an increased risk for a second event if he returned to work, but that appellant needed to be seen by a rheumatologist to confirm or deny that assumption. Dr. Sparks opined that appellant's exertion and subsequent dehydration on the noted days was the etiology of his problem.

By decision dated September 29, 2020, OWCP denied modification of the August 21, 2020 decision.

LEGAL PRECEDENT

An employee seeking benefits under FECA[2] 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 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 whether a federal employee has sustained a traumatic injury in the performance of duty, it must first be determined whether a 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.[6]

The medical evidence required to establish causal relationship between a claimed specific condition and an employment incident is rationalized medical opinion evidence.[7] 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 factors identified by the employee.[8]

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish a medical condition causally related to the accepted June 18, 2020 employment incident.

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[2] *Id*.

[3] *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).

[4] *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).

[5] *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).

[6] *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).

[7] *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).

[8] *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).

OWCP received reports dated June 20 and 21 2020 from Dr. Fernandez wherein she noted appellant's history of sweating while delivering mail and diagnosed exertional rhabdomyolysis. However, Dr. Fernandez did not provide a medical opinion explaining the cause of appellant's diagnosed conditions. The Board has held that medical evidence that does not offer an opinion regarding the cause of an employee's condition is of no probative value on the issue of causal relationship.[9] As such, these reports are insufficient to establish appellant's claim.

Appellant also submitted several reports from Dr. Sparks. In his report dated June 25, 2020, Dr. Sparks noted appellant's exertional rhabdomyolysis diagnosis; however, he did not provide an opinion regarding the cause of appellant's diagnosed condition. As such, this report is insufficient to establish appellant's claim.[10]

OWCP received a Form CA-17 dated June 25, 2020 from Dr. Sparks who indicated that appellant was diagnosed with exertional rhabdomyolysis and indicated by checking a box marked "Yes" that the diagnosis was due to an injury on the job. The Board has held that an opinion on causal relationship with an affirmative check mark, without more by the way of medical rationale, is insufficient to establish the claim.[11] As such, this report is insufficient to establish appellant's claim.

Appellant submitted reports dated July 14, and 28, 2020 from Dr. Sparks in which he noted appellant's history of injury and diagnosis, and noted that appellant should be referred to a rheumatologist. However, he did not provide an opinion regarding the causal relationship. The Board has held that a medical opinion is of limited probative value if it is conclusory in nature.[12] These reports are therefore insufficient to establish causal relationship.

Appellant also submitted a report dated September 19, 2020 from Dr. Sparks in which he opined that exertion and subsequent dehydration on the noted days was the cause of appellant's exertional rhabdomyolysis. While Dr. Sparks provided an opinion on causal relationship, he did not offer any rationale to explain how the accepted employment incident would have caused appellant's diagnosed conditions. The Board has held that a medical opinion should offer a medically-sound explanation of how the specific employment incident physiologically caused the diagnosed condition.[13]

Appellant also submitted a letter dated August 4, 2020 from Ms. Sparks, a registered nurse, in which she indicated that appellant's injury was consistent with exertional heat cramps escalating into exertional rhabdomyolysis. Ms. Sparks also noted that appellant's other problems were not a

[9] *D.C.*, Docket No. 19-1093 (issued June 25, 2020); *see L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

[10] *Id.*

[11] *See C.S.*, Docket No. 18-1633 (issued December 30, 2019); *D.S.*, Docket No. 17-1566 (issued December 31, 2018).

[12] *C.M.*, Docket No. 19-0360 (issued February 25, 2020).

[13] *T.W.*, Docket No. 20-0767 (issued January 13, 2021); *see H.A.*, Docket No. 18-1466 (issued August 23, 2019); *L.R.*, Docket No. 16-0736 (issued September 2, 2016).

factor in his injury as he had no prior heat stress-related injury or renal impairment. Certain healthcare providers such as physician assistants, nurse practitioners, and physical therapists are not considered physicians as defined under FECA.[14] Consequently, Ms. Sparks' letter will not suffice for the purposes of establishing entitlement to FECA benefits.[15]

OWCP also received medical literature in support of appellant's claim. The Board has long held, however, that excerpts from publications have little probative value in resolving medical questions unless a physician establishes the applicability of the general medical principle discussed in the article to the specific factual situation in the case.[16]

As there is no reasoned medical evidence explaining how appellant's accepted employment factors caused his exertional rhabdomyolysis condition, appellant 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 medical condition causally related to the accepted June 18, 2020 employment incident.

[14] *See M.C.*, Docket No. 19-1074 (issued June 12, 2020) (nurse practitioners are not considered physicians under FECA).

[15] 5 U.S.C. § 8101(2) provides that physician "includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, and osteopathic practitioners within the scope of their practice as defined by State law," 20 C.F.R. § 10.5(t). *See also* Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3a(1) (January 2013); *David P. Sawchuk*, 57 ECAB 316, 320 n.11 (2006) (lay individuals such as physician assistants, nurses, and physical therapists are not competent to render a medical opinion under FECA); *see also M.F.*, Docket No. 19-1573 (issued March 16, 2020); *N.B.*, Docket No. 19-0221 (issued July 15, 2019).

[16] *T.S.*, Docket No. 18-1518 (issued April 17, 2019); *W.C. (R.C.)*, Docket No. 18-0531 (issued November 1, 2018); *K.U.*, Docket No. 15-1771 (issued August 26, 2016); *Roger D. Payne*, 55 ECAB 535 (2004).

ORDER

IT IS HEREBY ORDERED THAT the September 29, 2020 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: May 27, 2021
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