United States Department of Labor
Employees' Compensation Appeals Board

M.M., Appellant	)	
and	)	**Docket No. 21-0373**
	)	**Issued: September 9, 2021**
DEPARTMENT OF THE NAVY, FIRE & EMERGENCY SERVICES, San Diego, CA, Employer	)	

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

Case Submitted on the Record

DECISION AND ORDER

Before:
JANICE B. ASKIN, Judge
PATRICIA H. FITZGERALD, Alternate Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On January 14, 2021 appellant filed a timely appeal from a December 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 September 24, 2020 employment incident.

FACTUAL HISTORY

On September 29, 2020 appellant, then a 40-year-old fire protection and prevention specialist, filed a traumatic injury claim (Form CA-1) alleging that on September 24, 2020 he

[1] 5 U.S.C. § 8101 *et seq*.

sustained an injury to his right hand, "specifically wrist," when he stepped off the rear of an engine and his heel caught the edge of a fan on the ground causing him to fall backwards and landing on his right hand while in the performance of duty. He stopped work on October 13, 2020.

Appellant submitted a September 29, 2020 witness statement from his captain, B.T., who indicated that on September 24, 2020, while checking equipment on the fire apparatus, appellant stepped off the rear of the truck and hit his heel on a fan, falling backwards onto the concrete using his right hand to break his fall.

On October 15, 2020 Dr. Patricia Brady, a Board-certified family practitioner, noted that appellant was unable to attend work/school for two weeks due to medical reasons.

In a certification of injury and/or return to work/school dated October 20, 2020, Amy L. Trautman, a physician assistant, noted treating appellant on October 20, 2020 for a right wrist injury. She returned appellant to work light duty with a wrist brace and full duty on November 18, 2020.

An x-ray of appellant's right wrist taken on October 20, 2020 demonstrated a slightly sclerotic appearance of the hook of the hamate, possibly a healing fracture.

On November 13, 2020 Dr. Mathew J. Meunier, a Board-certified orthopedist, treated appellant and indicated that he was recovering from a right wrist injury and would require an additional week off work.

In a development letter dated November 19, 2020, OWCP informed appellant of the deficiencies of his claim. It advised him of the type of factual and medical evidence required and provided a questionnaire for his completion. OWCP afforded appellant 30 days to submit the necessary evidence.

OWCP received additional evidence. A computerized tomography (CT) scan of the right upper extremity, dated November 13, 2020, revealed os styloideum at the base of the third metacarpal with arthritis between the os and third metacarpal.

Appellant was treated by Kathryn Chrzanowski a physician assistant, on November 19, 2020, for a right wrist injury occurring at work on September 24, 2020. Ms. Chrzanowski indicated that appellant could return to work without restrictions on November 23, 2020.

Dr. Meunier treated appellant on November 20, 2020 for a right wrist injury occurring at work on September 24, 2020. He returned appellant to regular-duty work on November 23, 2020. Appellant was seen again by Dr. Meunier on November 25, 2020 for a right wrist injury and he related that appellant could resume light-duty work on November 23, 2020.

In a medical referral form dated November 30, 2020, Leslie-Jean Sanchez, a physician assistant, cleared appellant to return to regular-duty work on November 30, 2020.

By decision dated December 29, 2020, OWCP denied appellant's traumatic injury claim, finding that he had not submitted medical evidence containing a medical diagnosis in connection

with his accepted employment incident. It concluded, therefore, that the requirements had not been met to establish an injury as defined under FECA.

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 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,[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]

In order to determine whether an employee actually sustained an 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 which must be considered in conjunction with one another. The first component to be established is that the employee actually experienced the employment incident which is alleged to have occurred.[6] The second component is whether the employment incident caused a personal injury and generally can be established only by medical evidence.[7]

Causal relationship is a medical question that requires rationalized medical opinion evidence to resolve the issue.[8] The opinion of the physician must be based on a complete factual and medical background of the claimant, 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 identified by the claimant.[9]

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[2] *Id*.

[3] *S.B.*, Docket No. 17-1779 (issued February 7, 2018); *J.P.*, 59 ECAB 178 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

[4] *J.M.*, Docket No. 17-0284 (issued February 7, 2018); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.* 40 ECAB 312 (1988).

[5] *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).

[6] *Id.; Elaine Pendleton*, 40 ECAB 1143 (1989).

[7] *K.L.*, Docket No. 18-1029 (issued January 9, 2019). *See Shirley A. Temple*, 48 ECAB 404, 407 (1997); *John J. Carlone* 41 ECAB 354, 356-57 (1989).

[8] *M.S.*, Docket No. 19-1096 (issued November 12, 2019); *Jacqueline M. Nixon-Steward*, 52 ECAB 140 (2000).

[9] *R.S.*, Docket No. 19-1484 (issued January 13, 2020); *Leslie C. Moore*, 52 ECAB 132 (2000).

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish a medical condition causally related to the accepted September 24, 2020 employment incident.

On October 15, 2020 Dr. Brady noted that appellant was unable to attend work/school for two weeks due to medical reasons. On November 13, 2020 Dr. Meunier indicated that appellant was recovering from a right wrist injury and would require an additional week off work. On November 20 and 25, 2020 he treated appellant in follow up for a right wrist injury occurring at work on September 24, 2020 and returned appellant to work without restrictions on November 23, 2020. 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.[10] Therefore, these reports are insufficient to establish appellant's claim.

Appellant submitted reports from Ms. Trautman dated October 20, 2020, Ms. Sanchez dated November 30, 2020, and Ms. Chrzanowski dated November 19, 2020, all physician assistants. The Board has held that medical reports signed solely by a physician assistant are of no probative value as such healthcare providers are not considered physicians as defined under FECA and are, therefore, not competent to provide medical opinions.[11] Consequently, their medical findings and/or opinions will not suffice for purposes of establishing entitlement to FECA benefits.[12]

Appellant submitted an x-ray of appellant's right wrist taken on October 20, 2020 and a CT scan of the right upper extremity dated November 13, 2020. The Board has held, however, that diagnostic testing reports, standing alone, lack probative value on the issue of causal relationship as they do not address the relationship between accepted employment factors and a diagnosed condition.[13] For this reason, these diagnostic reports are insufficient to meet appellant's burden of proof.

As appellant has not submitted rationalized, probative medical evidence sufficient to establish a diagnosed medical condition in connection with his September 24, 2020 employment incident, the Board finds that he has not met his burden of proof.

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

[11] Section 8101(2) of FECA 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." 5 U.S.C. § 8101(2); 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); *R.H.*, Docket No. 20-1684 (issued August 27, 2021); *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).

[12] *R.H., id.*

[13] *W.M.*, Docket No. 19-1853 (issued May 13, 2020); *L.F.*, Docket No. 19-1905 (issued April 10, 2020).

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 September 24, 2020 employment incident.

ORDER

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

Issued: September 9, 2021
Washington, DC

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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

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