

**United States Department of Labor
Employees' Compensation Appeals Board**

C.T., Appellant)

and)

U.S. POSTAL SERVICE, POST OFFICE,)
Milwaukee, WI, Employer)

**Docket No. 22-0195
Issued: August 25, 2022**

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
JAMES D. MCGINLEY, Alternate Judge

JURISDICTION

On November 15, 2021 appellant filed a timely appeal from a June 29, 2021 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act¹ (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.²

ISSUE

The issue is whether appellant has met her burden of proof to establish a back condition causally related to the accepted January 29, 2021 employment incident.

¹ 5 U.S.C. § 8101 *et seq.*

² The Board notes that, following the June 29, 2021 decision, OWCP received additional evidence. The Board's *Rules of Procedure* provides: "The Board's review of a case is limited to the evidence in the case record that was before OWCP at the time of its final decision. Evidence not before OWCP will not be considered by the Board for the first time on appeal." 20 C.F.R. § 501.2(c)(1). Thus, the Board is precluded from reviewing this additional evidence for the first time on appeal. *Id.*

FACTUAL HISTORY

On May 12, 2021 appellant, then a 67-year-old rural carrier, filed a traumatic injury claim (Form CA-1) alleging that on January 29, 2021 she sustained a compression fracture when organizing boxes in the back of a long-life vehicle (LLV) while in the performance of duty. On the reverse side of the form her supervisor indicated that she was not injured in the performance of duty. Appellant stopped work on February 2, 2021. In a letter of controversion of even date, the employing establishment challenged her claim, contending that she did not notify management until three months after the alleged incident and that she did not submit any medical documentation to substantiate her claim.

In a development letter dated May 19, 2021, OWCP informed appellant of the deficiencies of her claim. It advised her of the type of factual and medical evidence necessary to establish her claim and provided a questionnaire for her completion. OWCP afforded appellant 30 days to submit the necessary evidence.

OWCP received an after-visit summary dated February 8, 2021 from Dr. Joel Carroll, a Board-certified family practitioner, who noted that appellant was experiencing low back pain for two weeks after she reached for packages at work. Dr. Carroll diagnosed acute right-sided lower back pain without sciatica.

In an after-visit summary dated February 15, 2021, Dr. Carroll related appellant's back pain had improved. He diagnosed acute midline thoracic back pain.

On March 1, 2021 appellant followed up with Dr. Carroll who related that her pain was less intense at rest, but that she was still experiencing symptoms while bending and lifting at work.

In a June 2, 2021 statement, appellant explained that on January 29, 2021 she was organizing packages in the back of her LLV when she felt a muscle spasm. She noted that the pain began to worsen in the following weeks while working her delivery route. Appellant indicated that on April 1, 2020 she had a separate work-related incident, which resulted in a compression fracture and broken wrist.³

On June 8, 2021 Dr. Carroll examined appellant for a follow-up appointment. He reiterated that she was experiencing low back pain as a result of moving packages and indicated work restrictions of no lifting more than 10 pounds.

By decision dated June 29, 2021, OWCP denied appellant's traumatic injury claim, finding that the medical evidence of record was insufficient to establish a back condition causally related to the accepted January 29, 2021 employment incident. It concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

³ Appellant has a previously accepted traumatic injury claim for a closed fracture of the lower end of the radius under OWCP File No. xxxxxx177.

LEGAL PRECEDENT

A claimant seeking benefits under FECA⁴ 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,⁵ 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 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 and place, and in the manner alleged. The second component is whether the employment incident caused a personal injury.⁸

The medical evidence required to establish causal relationship is rationalized medical opinion evidence.⁹ Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. 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 specific employment factors identified by the claimant.¹⁰

⁴ *Supra* note 1.

⁵ *F.H.*, Docket No.18-0869 (issued January 29, 2020); *J.P.*, Docket No. 19-0129 (issued December 13, 2019); *Joe D. Cameron*, 41 ECAB 153 (1989).

⁶ *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).

⁷ *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).

⁸ *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).

⁹ *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).

¹⁰ *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).

ANALYSIS

The Board finds that appellant has not established a back condition causally related to the accepted January 29, 2021 employment incident.

In support of her claim, appellant submitted medical reports from Dr. Carroll dated February 8 through June 8, 2021, wherein he related her history of injury and diagnosed acute right sided low back pain caused from reaching for packages while working. Although Dr. Carroll suggested a work-related cause for appellant's back condition, he did not provide a rationalized medical opinion relating the specific diagnosed condition to the January 29, 2021 employment incident. The Board has held that a report is of limited probative value regarding causal relationship if it does not contain medical rationale explaining how an employment activity could have caused or aggravated a medical condition.¹¹ Therefore, the reports from Dr. Carroll are insufficient to meet appellant's burden of proof.

As the medical evidence of record is insufficient to establish a back condition causally related to the accepted January 29, 2021 employment incident, the Board finds that appellant has not met her 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 established a back condition causally related to the accepted January 29, 2021 employment incident.

¹¹ See *A.M.*, Docket No. 19-1394 (issued February 23, 2021); *V.D.*, Docket No. 20-0884 (issued February 12, 2021); *Y.D.*, Docket No. 16-1896 (issued February 10, 2017).

ORDER

IT IS HEREBY ORDERED THAT the June 29, 2021 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: August 25, 2022
Washington, DC

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

James D. McGinley, Alternate Judge
Employees' Compensation Appeals Board