

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

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<b>J.D., Appellant</b>	)	
	)	
<b>and</b>	)	<b>Docket No. 21-0470</b>
	)	<b>Issued: December 2, 2022</b>
<b>U.S. POSTAL SERVICE, NORTH METRO</b>	)	
<b>POST OFFICE, Duluth, GA, Employer</b>	)	
	)	

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

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

ALEC J. KOROMILAS, Chief Judge  
 VALERIE D. EVANS-HARRELL, Alternate Judge  
 JAMES D. MCGINLEY, Alternate Judge

**JURISDICTION**

On February 5, 2021 appellant filed a timely appeal from a January 15, 2021 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act<sup>1</sup> (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.<sup>2</sup>

**ISSUE**

The issue is whether appellant has met her burden of proof to establish a diagnosed medical condition in connection with the accepted December 11, 2020 employment incident.

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<sup>1</sup> 5 U.S.C. § 8101 *et seq.*

<sup>2</sup> The Board notes that, following the January 15, 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 December 12, 2020 appellant, then a 27-year-old rural carrier associate, filed a traumatic injury claim (Form CA-1) alleging that on December 11, 2020 she injured her right shoulder and hand, and sustained a fracture of her lumbar spine when her vehicle was rear ended by another vehicle when she was preparing to place mail in a mailbox while in the performance of duty. On the reverse side of the claim form, the employing establishment confirmed that the incident occurred in the performance of duty. Appellant stopped work on December 11, 2020 and returned to work on December 14, 2020.

In a December 11, 2020 lumbar spine computerized tomography (CT) scan preliminary report, Dr. Norman Pennington, a Board-certified diagnostic radiologist, noted a linear lucency in the left L5 transverse process which was suspicious for an acute fracture. He further noted that there was no evidence of subluxation.

The first page of an unsigned medical summary indicated that appellant was treated in the emergency department on December 11, 2020 and discharged with diagnoses of motor vehicle collision and fracture of the lumbar spine.

In a development letter dated December 16, 2020, OWCP informed appellant of the deficiencies of her claim. It advised her of the type of factual and medical evidence required to establish her claim and provided a questionnaire for her completion. OWCP afforded appellant 30 days to respond. No additional evidence was received.

By decision dated January 15, 2021, OWCP accepted that the December 11, 2020 employment incident occurred as alleged. However, it denied appellant's traumatic injury claim, finding that she did not submit sufficient medical evidence containing a medical diagnosis in connection with the accepted employment incident. OWCP concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

## **LEGAL PRECEDENT**

An employee seeking benefits under FECA<sup>3</sup> 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,<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

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<sup>3</sup> *Supra* note 1.

<sup>4</sup> *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).

employment injury.<sup>5</sup> These are the essential elements of every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.<sup>6</sup>

To determine whether an employee 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. The first component is that 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 and can be established only by medical evidence.<sup>7</sup>

The medical evidence required to establish causal relationship between a claimed specific condition and an employment incident is rationalized medical opinion evidence.<sup>8</sup> 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 incident identified by the employee.<sup>9</sup>

### ANALYSIS

The Board finds that appellant has not met her burden of proof to establish a diagnosed medical condition in connection with the accepted December 11, 2020 employment incident.

In support of her claim, appellant submitted a December 11, 2020 lumbar spine CT scan preliminary report in which Dr. Pennington noted linear lucency in the left L5 transverse process, which was suspicious for an acute fracture. However, diagnostic studies, standing alone, lack probative value as to the issue of causal relationship as they do not address whether the employment incident caused any of the diagnosed conditions.<sup>10</sup> As such, the CT scan report is insufficient to establish appellant's claim.<sup>11</sup>

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<sup>5</sup> *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).

<sup>6</sup> *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).

<sup>7</sup> *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).

<sup>8</sup> *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).

<sup>9</sup> *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).

<sup>10</sup> *See J.S.*, Docket No. 17-1039 (issued October 6, 2017); *M.M.*, Docket No. 16-1617 (issued January 24, 2017).

<sup>11</sup> *T.J.*, Docket No. 19-1339 (issued March 4, 2020).

Appellant also submitted the first page of an unsigned medical summary, which indicated that she was treated in the emergency department on December 11, 2020 and discharged with the diagnoses of motor vehicle collision and fracture of the lumbar spine. 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>12</sup> Therefore, this report is also insufficient to establish appellant's claim.

As there is no medical evidence of record that establishes a medical diagnosis in connection with the accepted employment incident, appellant has not met her burden of proof to establish that she sustained an injury causally related to the accepted December 11, 2020 employment incident.

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 a diagnosed medical condition in connection with the accepted December 11, 2020 employment incident.

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<sup>12</sup> *L.B.* Docket No. 21-0353 (issued May 23, 2022); *T.D.*, Docket No. 20-0835 (issued February 2, 2021); *R.C.*, Docket No. 19-0376 (issued July 15, 2019); *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *Merton J. Sills*, 39 ECAB 572, 575 (1988).

**ORDER**

**IT IS HEREBY ORDERED THAT** the January 15, 2020 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: December 2, 2022  
Washington, DC

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

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

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