



## **FACTUAL HISTORY**

On October 14, 2020 appellant, then a 56-year-old city carrier, filed a traumatic injury claim (Form CA-1) alleging that on October 2, 2020 he sustained an upper back sprain when his vehicle was struck by another vehicle while in the performance of duty. He stopped work on October 3, 2020.

In an October 2, 2020 medical note, Dr. Vijak Dorga, an internist, noted that appellant was seen in the emergency department and could return to work on October 5, 2020.

In an October 6, 2020 medical note, Marcella Cudjoe, a nurse practitioner, noted that appellant could return to work on October 9, 2020. In an October 9, 2020 medical note, she held him off work until October 14, 2020. In an October 12, 2020 medical note, Ms. Cudjoe provided work restrictions.

In an October 15, 2020 development letter, OWCP informed appellant that the evidence of record was insufficient to establish his claim. It advised him of the type of factual and medical evidence needed and provided a questionnaire for his completion. In a separate development letter of even date, OWCP requested that the employing establishment provide additional information regarding appellant's claim. It afforded both parties 30 days to respond.

Appellant submitted a copy of a New Jersey Police Crash Investigation Report noting an October 2, 2020 date of crash and that he was stopped in traffic when he was struck in the rear by another vehicle. He complained of lower back pain.

In an undated response to OWCP's development questionnaire, the employing establishment indicated that appellant was in the performance of duty on October 2, 2020 when he was using his postal vehicle to deliver mail.

An October 2, 2020 x-ray of the lumbar spine revealed mild levoscoliosis, disc space narrowing at L5-S1 level, and mild spondylosis deformans. A cervical spine x-ray of even date revealed mild degenerative disease involving the lower cervical spine, but revealed no evidence of a fracture.

In an October 29, 2020 medical report, Dr. Manisha K. Chahal, a pain medicine specialist, noted that appellant was involved in a motor vehicle accident (MVA) on October 2, 2020 when he was rear-ended by another vehicle. She reviewed the x-rays of the lumbar and cervical spine and conducted a physical examination, which revealed no erythema, abrasions, scars, or rashes on the lumbar spine and no signs of an external injury on the cervical spine. Dr. Chahal diagnosed other site myalgia, lumbar spondylosis without myelopathy or radiculopathy, myalgia of auxiliary muscles in the head and neck, and cervical spondylosis without myelopathy or radiculopathy. She noted that appellant had neck pain attributed to cervical myofascial pain syndrome and distinct myofascial trigger points. Dr. Chahal opined that his pain was causally related to his MVA on October 2, 2020.

In a November 3, 2020 response to OWCP's development questionnaire, appellant stated that he was delivering mail on his regular route on October 2, 2020 when his vehicle was rear-ended by another vehicle. He explained that his upper body was quickly pushed forward from the

impact and his vehicle rolled a foot or two as he steered it to the curb on his right side. Appellant noted that he immediately experienced pain in his lower to middle back and was taken to a hospital shortly after notifying his supervisor.

A November 5, 2020 attending physician's report (Form CA-20) containing an illegible signature noted that appellant was involved in an MVA while working on October 2, 2020 and diagnosed myalgia, lumbar spondylosis, and cervical spondylosis.

Appellant underwent physical therapy treatment from November 9 through 16, 2020.

In a November 13, 2020 work status note, Dr. Chahal indicated that appellant was unable to work until December 11, 2020.

By decision dated November 25, 2020, OWCP accepted that the October 2, 2020 incident occurred as alleged, but denied appellant's claim finding that the medical evidence of record was insufficient to establish causal relationship between a diagnosed medical condition and the accepted employment incident.

Following the decision, OWCP received an October 2, 2020 emergency medical service (EMS) report, which noted that appellant was found sitting in his vehicle after another vehicle rear-ended him. Appellant complained of back pain.

Appellant underwent physical therapy treatment from November 18 through December 9, 2020.

In a December 10, 2020 medical report, Dr. Chahal noted that appellant's low back pain persisted despite undergoing physical therapy treatment. She reiterated his history of injury and diagnoses. Dr. Chahal noted that appellant received trigger point injections.

On February 19, 2021 appellant requested reconsideration.

In a January 25, 2021 narrative report, Dr. Chahal related that appellant's pain began after his MVA on October 2, 2020. She noted that he attributed his symptoms to the accepted October 2, 2020 employment incident. Appellant explained to Dr. Chahal that, at the time of his injury, he was the restrained driver and was waiting on a red light when another vehicle rear-ended his vehicle. Dr. Chahal reviewed appellant's October 2, 2020 x-rays of the lumbar and cervical areas of the spine; a December 21, 2020 x-ray of the lumbar spine, which demonstrated worsened lumbar spondylosis; and a December 21, 2020 magnetic resonance imaging (MRI) scan of the lumbar spine, which revealed L5-S1 herniated nucleus pulposus abutting descending left S1 nerve root and bilateral neuroforaminal stenosis. She reported that he continued to experience severe left-sided low back pain as well as left lower extremity pain. Dr. Chahal noted that appellant had received a transforaminal epidural steroid injection. She opined, based on the history of injury, radiological findings, and physical examination findings, that appellant sustained his injuries from the accepted October 2, 2020 employment incident. Dr. Chahal further opined that appellant's low back pain was "caused by the impact of the rear-end collision" from the accepted October 2, 2020 employment incident. She concluded, "I believe this to be an accurate assessment with a reasonable degree of medical certainty, a rear-end collision is a severe stress on the spine where

the impact is transferred to the discs in the lumbar spine. Such severe stress on the spine can result in disc herniations. This is precisely what happened in this patient.”

By decision dated March 2, 2021, OWCP denied modification of its November 25, 2020 decision.

### **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 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 period of FECA,<sup>4</sup> and 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.<sup>5</sup> 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.<sup>6</sup>

To determine if an employee sustained a traumatic injury in the performance of duty, OWCP begins with an analysis of whether fact of injury has been established.<sup>7</sup> There are two components that must be considered in conjunction with one another. The first component is whether the employee actually experienced the employment incident as alleged.<sup>8</sup> The second component is whether the employment incident caused a personal injury.<sup>9</sup>

Causal relationship is a medical question that requires rationalized medical opinion evidence to resolve the issue.<sup>10</sup> A physician’s opinion on whether there is causal relationship between the diagnosed condition and the implicated employment incident must be based on a complete factual and medical background.<sup>11</sup> Additionally, the physician’s opinion must be expressed in terms of a reasonable degree of medical certainty, and must be supported by medical

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

<sup>4</sup> *S.C.*, Docket No. 18-1242 (issued March 13, 2019); *S.B.*, Docket No. 17-1779 (issued February 7, 2018); *J.P.*, 59 ECAB 178 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

<sup>5</sup> *T.H.*, Docket No. 18-1736 (issued March 13, 2019); *J.M.*, Docket No. 17-0284 (issued February 7, 2018); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

<sup>6</sup> *T.E.*, Docket No. 18-1595 (issued March 13, 2019); *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).

<sup>7</sup> *S.S.*, Docket No. 18-1488 (issued March 11, 2019); *T.H.*, 59 ECAB 388, 393-94 (2008).

<sup>8</sup> *E.M.*, Docket No. 18-1599 (issued March 7, 2019); *Elaine Pendleton*, 40 ECAB 1143 (1989).

<sup>9</sup> *E.M.*, *id.*; *John J. Carlone*, 41 ECAB 354 (1989).

<sup>10</sup> *S.S.*, *supra* note 7; *Robert G. Morris*, 48 ECAB 238 (1996).

<sup>11</sup> *C.F.*, Docket No. 18-0791 (issued February 26, 2019); *Jacqueline M. Nixon-Steward*, 52 ECAB 140 (2000).

rationale, explaining the nature of the relationship between the diagnosed condition, and appellant's specific employment incident.<sup>12</sup>

### ANALYSIS

The Board finds that this case is not in posture for decision.

In support of his claim, appellant submitted multiple medical reports in which his treating physician, Dr. Chahal, consistently noted that he continued to experience severe left-sided low back pain as well as left lower extremity pain following the accepted October 2, 2020 employment incident. In her January 25, 2021 narrative medical report, Dr. Chahal reiterated appellant's history of injury, reviewed his x-rays of the lumbar and cervical areas of the spine and the MRI scan of the lumbar spine, and provided multiple diagnoses. She indicated that the December 21, 2020 x-ray scan of the lumbar spine revealed worsened lumbar spondylosis. Dr. Chahal opined, based on the history of injury, radiological findings, and physical examination findings, that appellant sustained his injuries from the accepted October 2, 2020 employment incident. She further opined that appellant's low back pain was "caused by the impact of the rear-end collision" from the accepted October 2, 2020 employment incident. Dr. Chahal concluded, "I believe this to be an accurate assessment with a reasonable degree of medical certainty, a rear-end collision is a severe stress on the spine where the impact is transferred to the discs in the lumbar spine. Such severe stress on the spine can result in disc herniations. This is precisely what happened to this patient." The Board finds that Dr. Chahal's opinion, while not sufficiently rationalized to meet appellant's burden of proof, is sufficient, given the absence of opposing medical evidence, to require further development of the record.<sup>13</sup>

It is well established that proceedings under FECA are not adversarial in nature, and that while appellant has the burden of proof to establish entitlement to compensation, OWCP shares responsibility in the development of the evidence.<sup>14</sup> OWCP has an obligation to see that justice is done.<sup>15</sup>

On remand OWCP shall refer appellant, a statement of accepted facts, and the medical record to a specialist in the appropriate field of medicine for an evaluation and a well-rationalized opinion as to whether the diagnosed conditions are causally related to the accepted October 2, 2020 employment incident. If the physician opines that the diagnosed conditions are not causally related to the accepted employment incident, he or she must explain, with rationale, how or why the

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<sup>12</sup> *Id.*

<sup>13</sup> See *A.D.*, Docket No. 21-0143 (issued November 15, 2021); *R.B.*, Docket No. 18-0162 (issued July 24, 2019); *J.G.*, Docket No. 17-1062 (issued February 13, 2018). See also *John J. Carlone*, 41 ECAB 354 (1989); *Horace Langhorne*, 29 ECAB 820 (1978).

<sup>14</sup> *A.D., id.*; *A.P.*, Docket No. 17-0813 (issued January 3, 2018); *Jimmy A. Hammons*, 51 ECAB 219, 223 (1999); *William J. Cantrell*, 34 ECAB 1233, 1237 (1983).

<sup>15</sup> See *J.N.*, Docket No. 20-1287 (issued October 26, 2021); *B.C.*, Docket No. 15-1853 (issued January 19, 2016); *E.J.*, Docket No. 09-1481 (issued February 19, 2010).

opinion differs from that of Dr. Chahal. Following this and such other further development as deemed necessary, OWCP shall issue a *de novo* decision regarding appellant's claim.

**CONCLUSION**

The Board finds that this case is not in posture for decision.

**ORDER**

**IT IS HEREBY ORDERED THAT** the March 2, 2021 decision of the Office of Workers' Compensation Programs is set aside and the case is remanded for further proceedings consistent with this decision of the Board.

Issued: February 16, 2022  
Washington, DC

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

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

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