

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

D.C., Appellant

and

DEPARTMENT OF THE ARMY, U.S. ARMY
INSTALLATION MANAGEMENT
COMMAND, Fort Bliss, TX, Employer

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**Docket No. 22-0669
Issued: July 22, 2022**

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

Case Submitted on the Record

DECISION AND ORDER

Before:

PATRICIA H. FITZGERALD, Deputy Chief Judge
JANICE B. ASKIN, Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On March 30, 2022 appellant filed a timely appeal from a March 17, 2022 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.

ISSUE

The issue is whether appellant has met his burden of proof to establish an umbilical hernia causally related to the accepted August 5, 2021 employment incident.

FACTUAL HISTORY

On November 2, 2021 appellant, then a 36-year-old laborer, filed a traumatic injury claim (Form CA-1) alleging that on August 5, 2021 he developed sharp pain in his stomach while transitioning supplies from one facility to another while in the performance of duty. He explained

¹ 5 U.S.C. § 8101 *et seq.*

that he went to the doctor that same day, underwent diagnostic imaging, and was diagnosed with an umbilical hernia and referred for surgical repair. On the reverse side of the claim form E.C., an employing establishment supervisor, controverted the claim, contending that the injury was not reported within 30 days following the claimed injury. Appellant did not stop work.

A notification of personnel action, Standard Form (SF)-50, dated June 20, 2021 and an army position description dated August 11, 2017 were received with appellant's claim. Appellant also submitted an undated referral from Dr. Manuel Borrego, a family medicine practitioner, requesting evaluation of his umbilical hernia.

In an ultrasound report signed August 6, 2021, Dr. Julieta Oneto, a diagnostic radiologist, found an abdominal wall defect in appellant's right paraumbilical region with fat content protruding through a 1 centimeter (cm) muscular gap. She further noted an impression of a right paraumbilical fat-containing hernia and recommended surgical consultation.

In a November 4, 2021 development letter, OWCP informed appellant of the deficiencies of his claim. It advised him of the type of factual and medical evidence needed to establish his claim and provided a questionnaire for his completion. OWCP afforded appellant 30 days to submit the necessary evidence.

In a November 30, 2021 response to OWCP's development questionnaire, appellant explained that on June 21, 2021 he was referred for diagnostic imaging and on August 5, 2021 he underwent an ultrasound. He noted that a computerized tomography (CT) scan would be performed on December 6, 2021. Appellant related that he noticed symptoms around June 2021 and was still scheduling appointments for treatment. He noted that findings were incomplete, but that he had been diagnosed with an umbilical hernia and would submit laboratory tests as he received them. Appellant explained that an exact date of injury could not be provided as it occurred over time, and his symptoms only presented while performing job-related, labor-intensive duties. He alleged that the injury occurred when he was transferring a wide range of items between two facilities at which time he began to feel soreness in his stomach. Appellant related that he waited to see if he had just a pulled muscle, but when his symptoms did not resolve, he began seeking medical treatment. He asserted that his doctor instructed him not to lift more than 50 pounds until after he underwent surgery.

By decision dated December 6, 2021, OWCP accepted that the August 5, 2021 employment incident occurred as alleged. However, it denied appellant's claim, finding that he had not established a causal relationship between his diagnosed condition and the accepted employment incident.

OWCP continued to receive evidence. Appellant was treated in the emergency room on December 11, 2021. Dr. Humera Chaudhary, a diagnostic radiologist, diagnosed a supraumbilical hernia without obstruction and noted that an ultrasound revealed an abdominal wall defect near midline in the supraumbilical region of the abdominal wall. A clinical summary of even date reiterated Dr. Chaudhary's diagnosis. Discharge instructions and a referral from Dr. Heather Krause, an internist, also dated December 11, 2021, noted a diagnosis of supraumbilical hernia without obstruction.

Appellant requested reconsideration of OWCP's December 6, 2021 decision in a letter dated December 20, 2021. He noted that he had submitted evidence from his December 11, 2021 emergency room visit. Appellant also reiterated his argument that his injury was work related and caused by heavy lifting, which became noticeable when performing his job-related duties of transporting equipment from facility to facility *via* truck and pushing a cart and dolly to move equipment.

By decision dated March 17, 2022, OWCP denied modification of its December 6, 2021 decision.

LEGAL PRECEDENT

An employee seeking benefits under FECA² 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,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 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 whether 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.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

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).

nature of the relationship between the diagnosed condition and the specific employment incident identified by the claimant.⁸

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish an umbilical hernia causally related to the accepted August 5, 2021 employment incident.

In support of his claim, appellant submitted diagnostic reports, including an August 6, 2021 ultrasound report from Dr. Oneto and a December 11, 2021 ultrasound report from Dr. Chaudhary revealing an abdominal wall defect and a right paraumbilical hernia. The Board has held that diagnostic reports, standing alone, lack probative value on the issue of causal relationship as they do not provide an opinion as to whether the accepted employment incident caused a diagnosed condition.⁹ For this reason, this evidence is insufficient to establish appellant's claim.

Appellant also submitted discharge instructions and a clinical summary dated December 11, 2021 from an emergency room visit noting diagnoses of supraumbilical hernia and an abdominal wall defect, as well as a surgical referral from Dr. Krause. However, this evidence did not address causal relationship. The Board has held that medical evidence which does not offer an opinion regarding the cause of an employee's condition is of no probative value on the issue of causal relationship. As such, these reports are insufficient to establish appellant's claim.¹⁰

As appellant has not submitted rationalized medical evidence establishing that his umbilical hernia is causally related to the accepted August 5, 2021 employment incident, the Board finds that he has not met his burden of proof to establish his claim.

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 an umbilical hernia causally related to the accepted August 5, 2021 employment incident.

⁸ A.S., Docket No. 19-1955 (issued April 9, 2020); *Leslie C. Moore*, 52 ECAB 132 (2000).

⁹ *W.M.*, Docket No. 19-1853 (issued May 13, 2020); *L.F.*, Docket No. 19-1905 (issued April 10, 2020).

¹⁰ *See D.Y.*, Docket No. 20-0112 (issued June 25, 2020); *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

ORDER

IT IS HEREBY ORDERED THAT the March 17, 2022 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: July 22, 2022
Washington, DC

Patricia H. Fitzgerald, Deputy Chief Judge
Employees' Compensation Appeals Board

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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