

<sup>2</sup> 5 U.S.C. § 8101 *et seq.*

## **ISSUE**

The issue is whether appellant has met her burden of proof to expand the acceptance of her claim to include additional conditions as causally related to the accepted December 1, 2020 employment injury.

## **FACTUAL HISTORY**

On December 4, 2020 appellant, then a 57-year-old mail processing clerk, filed a traumatic injury claim (Form CA-1) alleging that on December 1, 2020 she was involved in a motor vehicle accident (MVA) and sustained injuries to her right arm and right hip, while in the performance of duty. She stopped work on December 1, 2020.

In support of her claim, appellant submitted hospital records dated December 1, 2020, which related that she was involved in an MVA and was seen for right-sided abdominal and right arm pain. Her diagnosis was listed as contusion of the right upper extremity. The records included an x-ray report of appellant's upper right forearm and pelvis dated December 1, 2020, read by Dr. Daniel Dolewski, a Board-certified diagnostic radiology specialist, which found no abnormalities, but noted mild osteoarthritis of the hips.

In a development letter dated December 11, 2020, OWCP advised appellant of the type of factual and medical evidence needed and provided a questionnaire for her completion. By separate development letter of even date, it requested that the employing establishment provide comments from a knowledgeable supervisor regarding appellant's allegations. OWCP afforded both parties 30 days to respond.

In a duty status report (Form CA-17) dated December 22, 2020, Nanette Schell, a nurse practitioner, related that appellant was injured in an MVA and diagnosed hematoma of the right hip. In a Form CA-17 dated January 11, 2021, she noted appellant's diagnoses related to the December 1, 2020 incident as hematoma, right hip pain, and back pain.

On January 12, 2021 OWCP accepted appellant's claim for contusion of right upper arm.

In a development letter dated January 19, 2021, OWCP noted that it had received medical evidence regarding possible additional hip condition in relation to appellant's accepted December 1, 2020 employment injury. It advised her of the type of factual and medical evidence needed for acceptance of an additional condition related to the hip and provided a questionnaire for her completion. OWCP afforded appellant 30 days to respond.

Appellant submitted a response to OWCP's questionnaire and explained that after the MVA she suffered extreme pain throughout her stomach and hip area as the seatbelt had tightened on impact.

OWCP received an unsigned medical report dated December 1, 2021 listing Dr. Matthew Reynolds, an osteopath Board-certified in emergency medicine, as the attending physician. Dr. Reynolds diagnosed a contusion of the right upper extremity.

OWCP received computerized tomography (CT) scans of appellant's abdomen and pelvis dated December 17 and 29, 2020 from Dr. Maria C. Flynn, a Board-certified diagnostic radiologist, which found no abnormalities, but noted mild stranding likely reflecting the area of bruising. Dr. Flynn also diagnosed appellant with degenerative disc disease.

In a letter dated January 8, 2021, Dr. Prashant Bagalkotkar, a Board-certified family practitioner, related that appellant was involved in an MVA on December 1, 2020 and sustained bruising and pain to her right hip and right lower abdomen. He diagnosed contusion, right hip pain, and right back pain and opined that appellant's pain was consistent with trauma one would incur from a seat belt during a motor vehicle accident.

In Form CA-17 reports dated January 25 and February 9, 2021, Dr. Bagalkotkar diagnosed pain, tenderness, and bruising of the right hip.

By decision dated April 9, 2021, OWCP denied the expansion of the acceptance of appellant's claim to include additional diagnoses of the right hip or lower back as causally related to the accepted employment injury.

On April 19, 2021 appellant, through counsel, requested a telephonic hearing before a representative of OWCP's Branch of Hearings and Review, which was held on July 9, 2021. During the telephonic hearing, appellant alleged that she had degenerative disc disease of the right hip and back which was aggravated by the MVA. The hearing representative afforded appellant 30 days to submit additional evidence.

In response, appellant resubmitted hospital records dated December 1, 2020.

By decision dated September 27, 2021, OWCP's hearing representative affirmed the April 9, 2021 decision.

### **LEGAL PRECEDENT**

When an employee claims that a condition not accepted or approved by OWCP was due to an employment injury, he or she bears the burden of proof to establish that the condition is causally related to the employment injury.<sup>3</sup>

Causal relationship is a medical question that requires rationalized medical opinion evidence to resolve the issue.<sup>4</sup> A physician's opinion on whether there is a causal relationship between the diagnosed condition and the accepted employment injury must be based on a complete factual and medical background.<sup>5</sup> Additionally, the physician's opinion must be expressed in terms of a reasonable degree of medical certainty, and must be supported by medical rationale,

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<sup>3</sup> *R.J.*, Docket No. 17-1365 (issued May 8, 2019); *Jaja K. Asaramo*, 55 ECAB 200, 204 (2004).

<sup>4</sup> *E.M.*, Docket No. 18-1599 (issued March 7, 2019); *Robert G. Morris*, 48 ECAB 238 (1996).

<sup>5</sup> *M.V.*, Docket No. 18-0884 (issued December 28, 2018); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

explaining the nature of the relationship between the diagnosed condition and appellant's employment injury.<sup>6</sup>

### ANALYSIS

The Board finds that appellant has met her burden of proof to establish right hip contusion/hematoma causally related the accepted December 1, 2020 employment injury.

On December 1, 2020 appellant was involved in a MVA and was seen and evaluated at the emergency department. She underwent a CT scan of her abdomen and pelvis dated December 17, 2020 from Dr. Flynn, which noted mild stranding likely reflecting the area of bruising. In addition, Dr. Bagalkotkar also confirmed appellant sustained bruising to her right hip in a letter dated January 8, 2021 as well as in several Form CA-17 reports. On December 22, 2020 Ms. Schell, a nurse practitioner, reported that suffered a right hip hematoma resulting from an MVA on December 1, 2020. The diagnosis of contusion/hematoma was consistent with appellant's physical examination and the mechanism of injury. As appellant has established a visible injury from the December 1, 2020 employment injury,<sup>7</sup> the Board will, therefore, reverse in part OWCP's September 27, 2021 decision and remand the case for payment of medical expenses for appellant's accepted contusion/hematoma to the right hip, to be followed by a *de novo* decision regarding any attendant disability.<sup>8</sup>

The Board further finds, however, that appellant has not met her burden of proof to expand the acceptance of her claim to include additional conditions as causally related to the accepted December 1, 2020 employment injury.

Hospital records dated December 1, 2020 noted diagnosis of abdominal and right arm pain. The Board has held that pain is a description of a symptom, not a diagnosis of a medical condition.<sup>9</sup> A medical report lacking a firm diagnosis is of no probative value.<sup>10</sup> These reports are, therefore, also insufficient to establish a diagnosed medical condition causally related to the accepted employment injury.

An x-ray report of appellant's upper right forearm and pelvis dated December 1, 2020, read by Dr. Dolewski, found no abnormalities but noted mild osteoarthritis of the hips. CT scans of appellant's abdomen and pelvis dated December 17 and 29, 2020 from Dr. Flynn diagnosed appellant with degenerative disease. The Board has held that diagnostic tests, standing alone, lack

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<sup>6</sup> *Id.* See also *M.K.*, Docket No. 21-0520 (issued August 23, 2021).

<sup>7</sup> Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.800.6(a) (June 2011). See also Chapter 2.805.3(c) (January 2013); *A.J.*, Docket No. 19-1289 (issued December 31, 2019).

<sup>8</sup> *K.V.*, Docket No. 21-1409 (issued April 19, 2022); see also *B.W.*, Docket No. 22-0134 (issued May 24, 2022).

<sup>9</sup> See *E.S.*, Docket No. 21-0189 (issued November 16, 2021); *C.S.*, Docket No. 20-1354 (issued January 29, 2021); *D.R.*, Docket No. 18-1408 (issued March 1, 2019); *D.A.*, Docket No. 18-0783 (issued November 8, 2018).

<sup>10</sup> *L.T.*, Docket No. 20-0582 (issued November 15, 2021); *E.S.*; *C.S.*, *id.*; *J.P.*, Docket No. 20-0381 (issued July 28, 2020); *R.L.*, Docket No. 20-0284 (issued June 30, 2020).

probative value as they do not address causal relationship.<sup>11</sup> For this reason, these reports are insufficient to meet appellant's burden of proof.

OWCP also received reports and Form CA-17 reports from a nurse practitioner. Certain healthcare providers such as physician assistants, nurse practitioners, and physical therapists are not considered physicians as defined under FECA.<sup>12</sup> Their medical findings, reports and/or opinions, unless cosigned by a qualified physician, will not suffice for purposes of establishing entitlement to FECA benefits.<sup>13</sup> Consequently, this additional evidence is insufficient to meet appellant's burden of proof.

As the medical evidence of record is insufficient to establish causal relationship between additional conditions and the accepted employment injury, the Board finds that appellant has not met her burden of proof to expand the acceptance of her 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 established a right hip contusion/hematoma causally related to the accepted December 1, 2020 employment injury. The Board further finds, however, that appellant has not met her burden of proof to establish additional conditions as causally related to the accepted December 1, 2020 employment injury.

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<sup>11</sup> See *W.M.*, Docket No. 19-1853 (issued May 13, 2020); *L.F.*, Docket No. 19-1905 (issued April 10, 2020).

<sup>12</sup> 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 Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3a(1) (January 2013); *C.G.*, Docket No. 20-0957 (issued January 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); see also *K.A.*, Docket No. 18-0999 (issued October 4, 2019).

<sup>13</sup> *B.R.*, Docket No. 21-1109 (issued December 28, 2021); *K.W.*, 59 ECAB 271, 279 (2007); *David P. Sawchuk*, *id.*

**ORDER**

**IT IS HEREBY ORDERED THAT** the September 27, 2021 decision of the Office of Workers' Compensation Programs is reversed in part and set aside in part. The case is remanded for further proceedings consistent with this decision of the Board.

Issued: June 6, 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