United States Department of Labor
Employees' Compensation Appeals Board

R.J., Appellant	)	
and	)	**Docket No. 22-0202**
	)	**Issued: June 21, 2022**
U.S. POSTAL SERVICE, POST OFFICE, Kansas, MO, Employer	)	

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

Case Submitted on the Record

DECISION AND ORDER

Before:
JANICE B. ASKIN, Judge
VALERIE D. EVANS-HARRELL, Alternate Judge
JAMES D. MCGINLEY, Alternate Judge

JURISDICTION

On November 19, 2021 appellant filed a timely appeal from an October 25, 2021 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act[1] (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 her burden of proof to establish a diagnosed condition causally related to the accepted September 8, 2021 employment incident.

FACTUAL HISTORY

On September 16, 2021 appellant, then a 34-year-old rural carrier associate, filed a traumatic injury claim (Form CA-1) alleging that on September 8, 2021 she sustained multiple

[1] 5 U.S.C. § 8101 *et seq*.

injuries as the result of a motor vehicle accident (MVA) while in the performance of duty. She stopped work on September 8, 2021.

Accompanying appellant's claim was an employing establishment accident form describing the September 8, 2021 MVA.

On September 16, 2020 OWCP received an authorization for examination and/or treatment (Form CA-16) from the employing establishment. Appellant's injury was described as head and lower arm injuries and a lower arm scratch.

In a development letter dated September 21, 2021, OWCP informed appellant of the deficiencies in her claim. It informed her of the type of factual and medical evidence necessary to establish her claim and provided a questionnaire for her completion. OWCP provided 30 days for response.

In a September 30, 2021 report, Katelyn Elaine Erwin, an advanced practice registered nurse, noted that appellant was involved in a motor vehicle accident on September 8, 2021. She diagnosed right elbow, neck, back, and rib pain and requested that x-rays be authorized.

By decision dated October 25, 2021, OWCP found that appellant had established that the incident occurred as alleged on September 8, 2021, but denied the claim, finding that she had not submitted medical evidence signed by a qualified physician providing a diagnosis in connection with the accepted incident. It concluded, therefore, that the requirements had not been met to establish an injury as defined under FECA.

LEGAL PRECEDENT

An employee seeking benefits under FECA[2] 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 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 the fact of injury has been established. There are two components involved in establishing the fact of injury. First, the employee must

[2] *Id*.

[3] *N.J.*, Docket No. 21-0551 (issued December 1, 2021); *J.P.*, Docket No. 19-0129 (issued April 26, 2019); *S.B.*, Docket No. 17-1779 (issued February 7, 2018); *Joe D. Cameron*, 41 ECAB 153 (1989).

[4] *N.J.*, *id.*; *J.M.*, Docket No. 17-0284 (issued February 7, 2018); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

[5] *N.J.*, *id.*; *R.R.*, Docket No. 19-0048 (issued April 25, 2019); *L.M.*, Docket No. 13-1402 (issued February 7, 2014); *Delores C. Ellyett*, 41 ECAB 992 (1990).

submit sufficient evidence to establish that he or she actually experienced the employment incident at the time, place, and in the manner alleged. Second, the employee must submit evidence, in the form of medical evidence, to establish that the employment incident caused a personal injury.[6]

Causal relationship is a medical question that requires rationalized medical opinion evidence to resolve the issue.[7] A physician's opinion on whether there is causal relationship between the diagnosed condition and the accepted employment incident must be based on a complete factual and medical background.[8] Additionally, the physician's opinion must be expressed in terms of a reasonable degree of medical certainty, and must be supported by medical rationale, explaining the nature of the relationship between the diagnosed condition and the specific employment incident.[9]

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish a diagnosed condition causally related to the accepted September 8, 2021 employment incident.

In support of her claim, appellant submitted a September 30, 2021 report signed by Ms. Erwin, an advanced practice registered nurse. The Board notes that this report related appellant's pain complaints. However, the Board has held that certain healthcare providers such as physical therapists, nurses, nurse practitioners, physician assistants, and social workers are not considered physicians as defined under FECA.[10] Consequently, their medical findings and/or opinions will not suffice for purposes of establishing causal relationship. As such, this evidence is of no probative value and insufficient to meet appellant's burden of proof.[11]

As the evidence of record is insufficient to establish a valid medical diagnosis from a qualified physician in connection with the accepted September 8, 2021 employment incident, the Board finds that appellant has not met her burden of proof.

[6] *N.J.*, *id.*; *K.L.*, Docket No. 18-1029 (issued January 9, 2019); *see* 5 U.S.C. § 8101(5) (injury defined); 20 C.F.R. §§ 10.5(ee), 10.5(q).

[7] *N.J.*, *id.*; *T.H.*, 59 ECAB 388, 393-94 (2008); *Robert G. Morris*, 48 ECAB 238 (1996).

[8] *N.J.*, *id.*; *M.V.*, Docket No. 18-0884 (issued December 28, 2018).

[9] *Id.*; *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

[10] Section 8101(2) of FECA defines a physician as 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); *R.M.*, Docket No. 21-0602 (issued March 10, 2022) (an advanced practice nurse is not a physician under FECA); *W.W.*, Docket No. 20-1587 (issued October 13, 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 D.S.*, Docket No. 19-1657 (issued July 20, 2020) (nurse practitioners and registered nurses are not considered physicians under FECA).

[11] *Id.*

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 condition causally related to the accepted September 8, 2021 employment incident.[12]

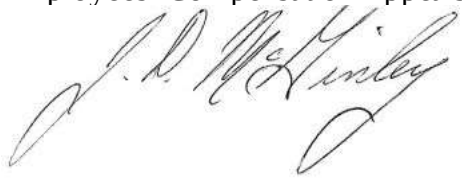
ORDER

IT IS HEREBY ORDERED THAT the October 25, 2021 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: June 21, 2022
Washington, DC

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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



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

[12] The Board notes that the employing establishment issued a Form CA-16. A completed Form CA-16 authorization may constitute a contract for payment of medical expenses to a medical facility or physician, when properly executed. The form creates a contractual obligation, which does not involve the employee directly, to pay for the cost of the examination or treatment regardless of the action taken on the claim. As this form was unsigned it was not properly executed. *See* 20 C.F.R. § 10.300(c); *C.R.*, Docket No. 21-0056 (issued August 19, 2021); *C.B.*, Docket No. 19-1882 (issued April 1, 2020); *J.G.*, Docket No. 17-1062 (issued February 13, 2018); *Tracy P. Spillane*, 54 ECAB 608 (2003).