United States Department of Labor
Employees' Compensation Appeals Board

S.B., Appellant	)	
and	)	**Docket No. 21-1022**
	)	**Issued: May 5, 2022**
U.S. POSTAL SERVICE, NORTH METRO POST OFFICE, Duluth, GA, Employer	)	

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

Case Submitted on the Record

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Chief Judge
PATRICIA H. FITZGERALD, Deputy Chief Judge
JANICE B. ASKIN, Judge

JURISDICTION

On June 28, 2021 appellant filed a timely appeal from an April 7, 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 back condition causally related to the accepted September 14, 2020 employment incident.

FACTUAL HISTORY

On October 29, 2020 appellant, then a 48-year-old rural carrier, filed a traumatic injury claim (Form CA-1) alleging that on September 14, 2020 she lifted and unloaded heavy parcels

[1] 5 U.S.C. § 8101 *et seq*.

from her vehicle, by herself, and sustained mid and low back pain while in the performance of duty. She did not stop work.

In a development letter dated November 9, 2020, OWCP informed appellant that of the deficiencies of her claim. It advised her of the type of factual and medical evidence needed and afforded her 30 days to submit the necessary evidence.

OWCP received duty status reports (Form CA-17) from Dr. LaDonna C. Bense, a chiropractor, who noted that appellant had sustained disc subluxations and required work restrictions. It also received x-ray images of appellant's cervical and lumbar areas of the spine.

By decision dated December 14, 2020, OWCP accepted that the September 14, 2020 employment incident occurred as alleged, but denied the claim as appellant had not submitted medical evidence of a diagnosis in connection with the accepted incident. It concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

OWCP received an attending physician's report (Form CA-20) dated September 22, 2020 from Dr. Bense, who related that appellant injured her back while lifting a parcel that should have been a "team lift." Dr. Bense noted findings including disc subluxation. She indicated by check mark that appellant's injury was work related.

Appellant also submitted an unsigned report dated November 3, 2020 from a medical provider, which related that on September 14, 2020 appellant lifted a heavy box and injured her back. Her diagnoses were listed as lumbar strain, and low back pain with radiculopathy.

OWCP received a magnetic resonance imaging (MRI) scan report dated November 23, 2020 from Dr. Matthew Greenspan, a Board-certified diagnostic radiology specialist. Dr. Greenspan noted appellant's history and review of her MRI, which revealed minimal posterior convexity margin at L3-4 and a small disc extrusion at L5-S1.

OWCP received an unsigned medical report dated December 9, 2020 from a medical provider. The report related that appellant injured her back at work on September 14, 2020 while lifting packages. Appellant's diagnoses were listed as lumbar strain and back pain with radiculopathy.

In a December 11, 2020 medical report, Dr. Henry C. Nygren, III, a Board-certified emergency medicine specialist, related that appellant was injured while lifting heavy boxes at work. He provided a diagnosis of lumbar strain.

On March 9, 2021 appellant requested reconsideration of OWCP's December 14, 2020 decision. She also submitted discharge instructions dated December 11, 2020, which noted that appellant was seen by Dr. Nygren who diagnosed lumbar strain.

By decision dated March 12, 2021, OWCP modified its December 14, 2020 decision to find that appellant had established a diagnosis in connection with the accepted incident. However, the claim remained denied as the medical evidence of record was insufficient to establish causal relationship between the diagnosed back condition(s)and the accepted employment incident.

On April 1, 2021 appellant requested reconsideration of OWCP's March 12, 2021 decision. She enclosed a report dated March 30, 2021 from Dr. Bense, who concluded that based on appellant's history, examination, and radiology findings, it was her professional opinion that appellant's injuries were causally related to the incident, which occurred on September 14, 2020. Dr. Bense related that appellant's x-rays showed subluxations in multiple locations and her examination revealed muscle tautness and spasms secondary to the trauma experienced by lifting a large, heavy object.

In an undated radiology report, Dr. Bense diagnosed cervical hypolordosis with antalgia, suggestive muscle spasms; discogenic spondylosis at C6-7; subluxation at C2-3, C3-4, C5-6, and C6-7; spondylosis at L5-S1; moderate decreased disc height at L5-S1; and subluxation at L4-5 and L5-S1.

By decision dated April 7, 2021, OWCP denied modification.

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 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,[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 must first be determined whether a fact of injury has been established. There are two components involved in establishing fact of injury. The first component to be established 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.[6]

[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).

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 nature of the relationship between the diagnosed condition and specific employment incident identified by the employee.[8]

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish a back condition causally related to the accepted September 14, 2020 employment incident.

Appellant submitted a March 30, 2021 report from Dr. Bense, which related that based on the history, examination, and radiology findings, it was her professional opinion that appellant's conditions were causally related to the September 14, 2020 employment incident. Dr. Bense related that appellant's x-rays showed subluxations in multiple locations and that her examination revealed muscle tautness and spasms secondary to the trauma experienced by lifting a large, heavy object. She is, therefore, considered to be a qualified physician under FECA to the extent she diagnosed a subluxation demonstrated by x-ray.[9] While Dr. Bense provided an opinion on causal relationship, her opinion was conclusory, as she did not offer any rationale to explain how the accepted employment incident would have caused appellant's diagnosed subluxations.[10] The Board has held that a report is of limited probative value regarding causal relationship if it does not contain medical rationale explaining how a given medical condition was related to employment.[11] This report is therefore insufficient to establish causal relationship.

In an attending physician's report (Form CA-20) dated September 22, 2020, Dr. Bense diagnosed lumbar subluxation and indicated by checkmark that appellant's injury was work related. The Board has held, however, that when a physician's opinion as to the cause of a condition or period of disability consists only of a checkmark on a form, without further explanation or rationale, that opinion is of diminished probative value and is insufficient to establish a claim.[12] Therefore, this report is insufficient to establish appellant's claim.

[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).

[8] *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).

[9] Section 8101(2) of FECA provides that the term physician includes chiropractors only if the treatment consists of manual manipulation of the spine to correct a subluxation as demonstrated by x-ray to exist. 5 U.S.C. § 8101(2). *See J.D.*, Docket No. 19-1953 (issued January 11, 2021); *T.T.*, Docket No. 18-0838 (issued September 19, 2019); *Thomas W. Stevens*, 50 ECAB 288 (1999).

[10] *T.W.*, Docket No. 20-0767 (issued January 13, 2021); *see H.A.*, Docket No. 18-1466 (issued August 23, 2019); *L.R.*, Docket No. 16-0736 (issued September 2, 2016).

[11] *C.P.*, Docket No. 21-0744 (issued December 20, 2021).

[12] *S.M.*, Docket No. 21-0937 (issued December 21, 2021).

OWCP also received Forms CA-17 from Dr. Bense in which she noted findings of lumbar subluxation but did not offer an opinion regarding causal relationship. The Board has held that medical evidence that does not offer an opinion regarding the cause of an employee's condition is of no probative value on the issue of causal relationship.[13] Therefore, these reports are also insufficient to establish appellant's claim.

Appellant submitted a medical report dated December 11, 2020 from Dr. Nygren, which listed appellant's diagnosis as a lumbar strain. Dr. Nygren reiterated appellant's history of injury, but did not provide an opinion on how the accepted employment incident would have physiologically caused the diagnosed conditions. The Board has held that medical evidence that does not offer an opinion regarding the cause of an employee's condition is of no probative value on the issue of causal relationship.[14] The discharge instructions dated December 11, 2020, which listed a diagnosis of lumbar strain are also of no probative value as they do not provide an opinion on causal relationship.[15] As such, these reports are insufficient to establish appellant's claim.

OWCP received unsigned reports dated November 3 and December 9, 2020 from a medical provider. The Board has held that reports that are unsigned or bear an illegible signature cannot be considered probative medical evidence as the author cannot be identified as a physician.[16] Therefore, these reports have no probative value and are insufficient to establish the claim.

OWCP also received diagnostic studies. The Board has, however, explained that diagnostic studies, standing alone, lack probative value as they do not provide a rationalized medical explanation as to how the accepted employment incident or factor caused the diagnosed medical condition.

As there is no rationalized medical evidence of record establishing that appellant's diagnosed back conditions were causally related to the accepted employment incident, the Board finds that appellant has not met her burden of proof.

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 back condition causally related to the September 14, 2020 employment incident.

[13] *D.K.*, Docket No. 21-0214 (issued September 29, 2021); *S.W.*, Docket No. 19-1579 (issued October 9, 2020); *see L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

[14] *D.C.*, Docket No. 19-1093 (issued June 25, 2020); *see L.B., id.*; *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

[15] *Id.*

[16] *C.S.*, Docket No. 20-1354 (issued January 29, 2021); *D.T.*, Docket No. 20-0685 (issued October 8, 2020); *Merton J. Sills*, 39 ECAB 572, 575 (1988).

ORDER

IT IS HEREBY ORDERED THAT the April 7, 2021 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: May 5, 2022
Washington, DC

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

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board