

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

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T.G., Appellant)

and)

U.S. POSTAL SERVICE, GREENSBORO)
NETWORK DISTRIBUTION CENTER,)
Greensboro, NC Employer)

)
)
) **Docket No. 21-0977**
) **Issued: November 10, 2022**
)
)

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

Case Submitted on the Record

DECISION AND ORDER

Before:

ALEC J. KOROMILAS, Chief Judge
VALERIE D. EVANS-HARRELL, Alternate Judge
JAMES D. MCGINLEY, Alternate Judge

JURISDICTION

On June 14, 2021 appellant filed a timely appeal from a January 27, 2021 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 her burden of proof to establish a diagnosed medical condition causally related to the accepted December 20, 2020 employment incident.

FACTUAL HISTORY

On December 20, 2020 appellant, then a 29-year-old mail handler, filed a traumatic injury claim (Form CA-1) alleging that on the same date she injured her knees after a pallet hit the back

¹ 5 U.S.C. § 8101 *et seq.*

of her knees pushing her forward into the feedline while in the performance of duty. Appellant did not stop work.

In a December 21, 2020 development letter, OWCP informed appellant that it had received no evidence in support of her traumatic injury claim. It advised her of the type of factual and medical evidence needed to establish her claim. OWCP afforded appellant 30 days to submit the necessary evidence.

Thereafter, OWCP received a December 20, 2020 duty status report (Form CA-17) from Brittney Bishop, a physician assistant, who noted abrasions, mild edema, and diffused knee pain in both knees. The provider diagnosed knee strain and contusion in both knees and provided work restrictions.

In a December 20, 2020 attending physician's report, Part B of an authorization for examination and/or medical treatment (Form CA-16), Ms. Bishop performed x-rays of the knees and diagnosed bilateral knee contusion and strains.

In a December 20, 2020 statement, A.A., a coworker, indicated that at approximately 11:15 a.m. that day, he was working on a forklift and observed appellant holding the back of her knees. When he descended from the forklift he noticed that the pallet she had been working on had come off the roller because the protective guard was down.

On December 20, 2020 appellant was seen by Ms. Bishop, who diagnosed a sprain and contusion in both knees. She cleared appellant for work with restrictions and scheduled a follow up on December 23, 2020.

On December 21, 2020 appellant accepted an offer of limited-duty assignment as a modified mail handler.

A December 21, 2020 statement from C.S., an authorizing official with the employing establishment, noted that appellant approached her on December 20, 2020 alleging that A.A. attempted to load the roller table with five pallets and they rolled forward because he was not paying attention pinning her between the pallets and the feed line table. C.S. noted that appellant continued to work until she requested to seek medical assistance due to pain in her knees.

A December 23, 2020 Form CA-17 from Ms. Bishop diagnosed pain and swelling of the knees and provided work restrictions.

In an undated statement, appellant alleged that she was involved in a work incident on December 20, 2020 at 9:31 a.m. when she was struck by a forklift after she was pinned between a roller feeder and pallet loader. She noted scratches on the back and side area of both knees. Appellant continued working until she notified her supervisor. She stopped working that day after she felt weakness and pain in her knees.

In a December 30, 2020 Form CA-17, Ms. Bishop diagnosed a contusion and sprain of the knees and provided work restrictions.

On January 5, 2021 appellant accepted an offer of a limited-duty assignment as a modified mail handler.

By decision dated January 27, 2021, OWCP accepted that the December 20, 2020 employment incident occurred as alleged. However, it denied appellant's claim, finding that the medical evidence of record was insufficient to establish a diagnosed medical condition in connection with the accepted employment incident. Consequently, OWCP found that appellant had not met the requirements to establish an injury as defined by FECA.

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 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

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

² *Id.*

³ *F.H.*, Docket No. 18-0869 (issued January 29, 2020); *J.P.*, Docket No. 19-0129 (issued December 13, 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 *F.D.*, Docket No. 21-1045 (issued December 22, 2021); *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).

be one of reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the employment incident.⁸

ANALYSIS

The Board finds that appellant has met her burden of proof to establish abrasions, mild edema, and knee contusions on the back side of her knees causally related to the accepted December 20, 2020 employment incident.

OWCP found that the December 20, 2020 employment incident, in which appellant was struck by a pallet, had occurred in the performance of duty, as alleged. In a number of reports, Ms. Bishop diagnosed abrasions, mild edema, and contusions on the back and side area of both knees. OWCP's procedures provide that, if a condition reported is a minor one, such as a burn, laceration, insect sting, or animal bite, which can be identified on visual inspection by a lay person, a case may be accepted without a medical report.⁹

As the evidence of record establishes that appellant's accepted employment incident resulted in visible injuries, the Board finds that she has met her burden of proof to establish abrasions, mild edema, and contusions on the back side of her knees as causally related to the accepted December 20, 2020 employment incident.¹⁰ The case will, therefore, be remanded to OWCP for payment of medical expenses for appellant's diagnosed conditions and any attendant disability.

The Board further finds, however, that appellant has not met her burden of proof to establish additional diagnosed medical conditions causally related to the accepted December 20, 2020 employment injury.

In her several reports, including a diagnostic study, Ms. Bishop also diagnosed bilateral knee sprains and strains. However, certain healthcare providers such as physician assistants, nurses, nurse practitioners, physical therapists, and social workers are not considered "physician[s]" as defined under FECA.¹¹ Consequently, their medical findings and/or opinions

⁸ *F.D., id.; 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 See Federal (FECA) Procedure Manual, Part 2 -- Claims, *Initial Development of Claims*, Chapter 2.800.6(a) (June 2011); Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3(c) (January 2013). See also *R.H.*, Docket No. 20-1684 (issued August 27, 2021); *A.J.*, Docket No. 20-0484 (issued September 2, 2020).

¹⁰ *Id.; J.M.*, Docket No. 21-0077 (issued June 27, 2022); *P.B.*, Docket No. 20-1643 (issued March 30, 2022); *S.K.*, Docket No. 18-1411 (issued July 22, 2020).

¹¹ 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); *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 *R.H.*, Docket No. 20-1684 (issued August 27, 2021) (a physician assistant is not considered a physician as defined under FECA).

will not suffice for purposes of establishing entitlement to FECA benefits. Therefore, these reports are insufficient to establish diagnoses of bilateral knee sprains and strains.¹²

As the record lacks rationalized medical evidence from a physician establishing additional diagnosed medical conditions causally related to the accepted December 20, 2020 employment injury, 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 met her burden of proof to establish abrasions, mild edema, and knee contusions on the back side of her knees causally related to the accepted December 20, 2020 employment incident. The Board further finds that appellant has not established additional diagnosed medical conditions causally related to the accepted December 20, 2020 employment injury.

¹² *R.H., id.*

ORDER

IT IS HEREBY ORDERED THAT the January 27, 2021 decision of the Office of Workers' Compensation Programs is reversed in part and affirmed in part. The case is remanded for further proceedings consistent with this decision of the Board.¹³

Issued: November 10, 2022
Washington, DC

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

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

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

¹³ The record contains Part B of a Form CA-16. A properly 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. The period for which treatment is authorized by a Form CA-16 is limited to 60 days from the date of issuance, unless terminated earlier by OWCP. 20 C.F.R. § 10.300(c); *P.R.*, Docket No. 18-0737 (issued November 2, 2018); *N.M.*, Docket No. 17-1655 (issued January 24, 2018); *Tracy P. Spillane*, 54 ECAB 608 (2003).