

her postal vehicle was rear ended by another vehicle, while in the performance of duty. She stopped work on September 6, 2021.

Accompanying appellant's claim was a September 4, 2021 police report and a September 16, 2021 employing establishment accident report, which documented her September 4, 2021 motor vehicle accident (MVA).

In a development letter dated September 27, 2021, OWCP informed appellant of the deficiencies of her claim. It advised her as to the type of additional factual and medical evidence required and provided a questionnaire for her completion. OWCP afforded appellant 30 days to respond.

In support of her claim, appellant submitted patient educational materials pertaining to head injury, tension headache, and cervical sprain.

In a report dated September 16, 2021, Katherine Henry, a nurse practitioner, diagnosed cervicgia/neck pain and low back pain. She noted that appellant had been involved in an MVA and had been seen in an emergency room during the prior week.

OWCP also received an undated and unsigned authorization for examination and/or treatment (Form CA-16) for neck and back pain following a September 4, 2021 MVA. It also received a September 20, 2021 attending physician's report, Part B of the Form CA-16, from Dr. Gregory Mayberry, a Board-certified family practice physician. Dr. Mayberry related appellant's history of injury, including the fact that she had been involved in an MVA while on duty on September 4, 2021. While he checked a box marked "Yes" indicating that he believed the condition was caused or aggravated by the employment activity, he did not note a diagnosis. Dr. Mayberry found appellant totally disabled from work commencing September 20, 2021. He also noted that any permanent effects from the incident were to be determined.

In an encounter note dated September 20, 2021, Dr. Mayberry noted appellant's history of injury and diagnosed cervicgia/neck pain and low back pain. He noted that she might have post-concussion syndrome based on her frontal headaches following the accident. On examination, Dr. Mayberry reported normal motor strength, limited range of motion, muscle tenderness, and normal gait.

In a work excuse note dated September 21, 2021, Dr. Mayberry requested that appellant be excused from work until October 13, 2021.

OWCP also received a physical therapy note dated September 21, 2021 which noted a diagnosis of cervicgia.

By decision dated November 1, 2021, OWCP denied appellant's traumatic injury claim, finding that the medical evidence of record was insufficient to establish a diagnosed medical condition causally related to the accepted employment incident.

Following the denial of her claim, OWCP received Dr. Mayberry's October 13, 2021 response to the employing establishment regarding appellant's ability to return to work.

Dr. Mayberry advised that appellant was to remain off for the next two weeks as she recovered from uncontrolled neck pain.

OWCP received a disability note dated November 1, 2021 from Dr. Mayberry noting that appellant had been seen on October 13, 2021 and that she may return to work on October 27, 2021.

In a report dated January 24, 2022, Dr. Mayberry noted that, following the MVA, appellant had been seen in the emergency room. He noted that appellant developed frontal headaches following the accident and has significant right neck and thoracic/lumbar pain. Given her frontal headaches, Dr. Mayberry opined that she may have post-concussion syndrome.

On February 11, 2022 appellant requested reconsideration and submitted additional evidence.

OWCP received an encounter note dated October 13, 2021 from Dr. Mayberry in which he again diagnosed neck and low back pain, with an onset of September 20, 2021. In a report dated November 18, 2021, Dr. Mayberry reiterated his previous findings and diagnosed low back and neck pain and headache. He noted that appellant's continued headache may be related to the neck pain due to the MVA.

OWCP also received a December 1, 2021 note from Dr. Mayberry. Dr. Mayberry reported that appellant was seen on September 20, 2021 following her September 4, 2021 MVA and that she was treated for low back and neck pain and headaches.

In a decision dated April 1, 2022, OWCP modified the denial of appellant's claim, to find that the evidence of record was insufficient to establish that a medical condition was diagnosed in connection with the accepted employment incident.

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

² *Id.*

³ *C.W.*, Docket No. 21-1095 (issued May 20, 2022); *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 *C.W.*, *id.*; *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 *C.W.*, *id.*; *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).

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.⁶

The evidence required to establish causal relationship 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 diagnosed medical condition in connection with the accepted September 4, 2021 employment incident.

In support of her claim, appellant submitted a number of reports and work excuse notes from Dr. Mayberry dated September 20, 2021 through January 24, 2022. In an encounter note dated September 20, 2021, Dr. Mayberry noted appellant's history of injury and diagnosed cervicalgia/neck pain, low back pain, and a possible concussion. In his subsequent reports, he continued to diagnose cervical and back pain, headache and possible post-concussive syndrome. The Board has held that pain is a description of a symptom, not a clear diagnosis of a medical condition.⁹ A report lacking a firm diagnosis is of no probative value.¹⁰ Thus, this evidence is insufficient to meet appellant's burden of proof to establish her claim.

OWCP also received a September 20, 2021 attending physician's report, Part B of a Form CA-16, wherein Dr. Mayberry related appellant's history of injury. While Dr. Mayberry checked the marked box "Yes" indicating that the injury was caused or aggravated by the employment activity, the form contained no diagnosis. The record also contains a September 21, 2021 work excuse requesting that appellant be excused from work until October 13, 2021 and a November 1, 2021 disability note releasing her to return to work on October 27, 2021 from Dr. Mayberry. However, Dr. Mayberry again did not provide a medical diagnosis. As previously noted, a medical

⁶ *A.D.*, Docket No. 21-1205 (issued January 13, 2022); *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 *A.D.*, *id.*; *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 *C.W.*, *supra* note 3; *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 (1989).

⁹ *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).

¹⁰ *L.T.*, Docket No. 20-0582 (issued November 15, 2021); *E.S.*, *supra* note 9; *C.S.*, *supra* note 9; *J.P.*, Docket No. 20-0381 (issued July 28, 2020); *R.L.*, Docket No. 20-0284 (issued June 30, 2020).

report lacking a firm diagnosis is of no probative value.¹¹ As such, Dr. Mayberry's reports are insufficient to meet appellant's burden of proof.

Appellant provided treatment notes from a nurse practitioner and a physical therapist. The Board has long held that certain healthcare providers such as nurse practitioners and physical therapists, are not considered physician(s) as defined under FECA.¹² Consequently, their findings and/or opinions will not suffice for purposes of establishing entitlement to FECA benefits.¹³

OWCP also received medical educational materials pertaining to diagnoses of head injury, tension headache and cervical strain. The Board has held that excerpts of publications medical or otherwise are of no evidentiary value in establishing a claim as they are of general application and are not determinative as to whether a medical condition was diagnosed in connection with the accepted employment incident.¹⁴ As such, this evidence is insufficient to establish the claim.

As there is no medical evidence of record establishing a diagnosed medical condition in connection with the accepted September 4, 2021 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 diagnosed medical condition was in connection with the accepted September 4, 2021 employment incident.

¹¹ *Id.*

¹² 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 *J.D.*, Docket No. 21-0164 (issued June 15, 2021) (nurse practitioners are not physicians as defined under FECA); *A.M.*, Docket No. 20-1575 (issued May 24, 2021) (physical therapists are not physicians as defined by FECA).

¹³ *Id.*

¹⁴ *I.M.*, Docket No. 19-1189 (issued November 16, 2020); *C.S.*, Docket No. 14-1994 (issued June 26, 2015); *D.C.*, Docket No. 13-1713 (issued November 20, 2013); *Harlan L. Soeten*, 38 ECAB 566, 567 (1987).

ORDER

IT IS HEREBY ORDERED THAT the April 1, 2022 decision of the Office of Workers' Compensation Programs is affirmed.¹⁵

Issued: October 18, 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

¹⁵ 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. *See* 20 C.F.R. § 10.300(c); *J.D.*, Docket No. 22-0286 (issued June 15, 2022); *V.S.*, Docket No. 20-1034 (issued November 25, 2020); *J.G.*, Docket No. 17-1062 (issued February 13, 2018); *Tracy P. Spillane*, 54 ECAB 608 (2003).