United States Department of Labor
Employees' Compensation Appeals Board

J.B., Appellant	)	
and	)	**Docket No. 22-0279**
	)	**Issued: September 19, 2022**
DEPARTMENT OF THE NAVY, NAVAL FACILITIES ENGINEERING COMMAND-PROJECTS, Bethesda, MD, 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
JANICE B. ASKIN, Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On December 14, 2021 appellant filed a timely appeal from a November 10, 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 his burden of proof to establish a diagnosed medical condition causally related to the accepted April 7, 2021 employment incident.

FACTUAL HISTORY

On April 21, 2021 appellant, then a 68-year-old architect, filed a traumatic injury claim (Form CA-1) alleging that on April 7, 2021 he sustained right-sided neck pain and a persistent

[1] 5 U.S.C. § 8101 *et seq*.

headache as a result of lifting a heavy recycling bin filled with documents while in the performance of duty. On the reverse side of the claim form, the employing establishment acknowledged that appellant was injured in the performance of duty and indicated that he returned to work on April 8, 2021.

A medical report dated April 12, 2021 from Hillary Carrier, a certified registered nurse practitioner, related that appellant experienced right-sided neck pain after lifting heavy recycling bins on the date of injury. She diagnosed a tension headache.

In physical therapy notes dated April 28, 2021, an unidentifiable health care provider noted that appellant sustained a cervical muscle strain after lifting a heavy recycling bin. The provider recommended physical therapy treatment over the course of six weeks.

Appellant provided additional physical therapy notes dated May 3 through June 7, 2021 indicating his short and long-term treatment progress.

In a development letter dated October 4, 2021, OWCP informed appellant of the deficiencies of his claim. It advised him of the type of factual and medical evidence necessary to establish his claim and provided a questionnaire for his completion. OWCP afforded appellant 30 days to respond.

On October 18, 2021 appellant responded to OWCP's questionnaire, asserting that he sustained a tension headache and neck pain after picking up large trash cans and plastic tubs containing shredded documents. He further indicated that he initially did not feel pain, but that after symptoms began the next morning, he sought medical treatment. Appellant noted that he neither sustained any other injury nor did he have prior injuries.

In a November 2, 2021 narrative report, Dr. Sabita Sharma, a Board-certified family medicine practitioner opined that it "appears" appellant developed neck pain and a headache as a result of the employment incident.

By decision dated November 10, 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 April 7, 2021 employment incident. It concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

LEGAL PRECEDENT

A claimant 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 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

[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).

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.[6]

The medical evidence required to establish causal relationship is rationalized medical opinion evidence.[7] Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the claimant, 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 factors identified by the claimant.[8]

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish a diagnosed medical condition causally related to the accepted April 7, 2021 employment incident.

Dr. Sharma's November 2, 2021 narrative report is insufficient to establish his traumatic injury claim as she couched her conclusions that it "appears" he sustained a headache and neck pain as a result of the employment incident in equivocal terms. The Board has held, that medical opinions that are speculative or equivocal in character are of limited probative value.[9] To be of

[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] *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] *J.W.*, Docket No. 18-0678 (issued March 3, 2020); *D.B.*, Docket No. 18-1359 (issued May 14, 2019); *Ricky S. Storms*, 52 ECAB 349 (2001) (while the opinion of a physician supporting causal relationship need not be one of absolute medical certainty, the opinion must not be speculative or equivocal. The opinion should be expressed in terms of a reasonable degree of medical certainty).

probative value, a physician's opinion on causal relationship must be one of reasonable medical certainty.[10] Accordingly, Dr. Sharma's opinion is insufficient to establish appellant's claim.

Appellant also submitted a medical report dated April 12, 2021 from Ms. Carrier, a certified registered nurse practitioner, who diagnosed a tension headache. The Board has held that medical reports signed solely by a nurse practitioner are of no probative value as such providers are not considered physicians as defined under FECA.[11] As such, Ms. Carrier's medical report is of no probative value and insufficient to establish appellant's claim.

The remaining medical evidence of record consists of physical therapy notes dated April 28 through June 7, 2021, from an unidentifiable health care provider, which notes appellant's physical therapy treatment. The Board, however, has held that reports that are unsigned or bear an illegible signature lack proper identification and cannot be considered probative medical evidence as the author cannot be identified as a physician.[12] These notes, therefore, are also insufficient to establish appellant's claim.

As there is no rationalized medical evidence establishing a diagnosed medical condition causally related to the accepted April 7, 2021 employment incident, appellant has not met his 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 his burden proof to establish a diagnosed medical condition causally related to the accepted April 7, 2021 employment incident.

[10] *D.P.*, Docket No. 18-1647 (issued March 21, 2019); *P.O.*, Docket No. 14-1675 (issued December 3, 2015); *S.R.*, Docket No. 12-1098 (issued September 19, 2012).

[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); *see also 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 M.C.*, Docket No. 19-1074 (issued June 12, 2020) (nurse practitioners are not considered physicians as defined under FECA).

[12] *C.M.*, Docket No. 21-0004 (issued May 24, 2021); *T.D.*, Docket No. 20-0835 (issued February 2, 2021); *Merton J. Sills*, 39 ECAB 572, 575 (1988).

ORDER

IT IS HEREBY ORDERED THAT the November 10, 2021 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: September 19, 2022
Washington, D.C.

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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