United States Department of Labor
Employees' Compensation Appeals Board

B.D., Appellant	)	
and	)	**Docket No. 22-0503**
	)	**Issued: September 27, 2022**
U.S. POSTAL SERVICE, POST OFFICE, Portland, OR, Employer	)	

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

Case Submitted on the Record

DECISION AND ORDER

Before:
PATRICIA H. FITZGERALD, Deputy Chief Judge
VALERIE D. EVANS-HARRELL, Alternate Judge
JAMES D. McGINLEY, Alternate Judge

JURISDICTION

On February 17, 2022 appellant filed a timely appeal from a February 4, 2022 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 medical condition causally related to the accepted November 29, 2021 employment incident.

FACTUAL HISTORY

On December 3, 2021 appellant, then a 49-year-old rural carrier, filed a traumatic injury claim (Form CA-1) alleging that he sustained a whiplash injury on November 29, 2021 when his vehicle was struck by a passing vehicle while he was delivering mail in the performance of duty. He stopped work November 30, 2021.

[1] 5 U.S.C. § 8101 *et seq*.

A November 29, 2021 investigative report indicated that after appellant had returned to his postal vehicle after delivering mail on November 9, 2021 a van swiped his postal vehicle causing damage to both vehicles. The report further indicated that the police did not respond to the call. Appellant's supervisor offered him medical treatment which he declined. Appellant sought medical treatment the following day at an urgent care facility.

A November 30, 2021 form report, signed by a provider with an illegible signature, noted the history of injury.

In a development letter dated December 29, 2021, OWCP informed appellant of the deficiencies of his claim. It advised him of the type of medical evidence needed and afforded him 30 days to submit the necessary evidence.

A December 30, 2021 call entry on a triage nurse report noted that appellant was seen on December 28, 2021 by a nurse practitioner. Appellant indicated that he suffered a neck strain and was in counseling for the work incident. He also noted that he was taken off work.

In a November 30, 2021 report, a physician assistant noted appellant's November 29, 2021 employment incident and indicated that appellant had undergone physical examination. An assessment of neck strain, right trapezius muscle strain, and left trapezius muscle strain was provided. The report was cosigned by Dr. Rodney E. Orr, a family medicine specialist.

In a December 7, 2021 form report, Dr. Orr noted the history of appellant's November 29, 2021 employment incident. He diagnosed crashing of motor vehicle and acute stress reaction. Dr. Orr opined that appellant was temporarily totally disabled from work.

A nurse practitioner provided work excuse notes dated December 7, 14, and 28, 2021 and January 12, 2022.

In a January 12, 2022 attending physician's report (Form CA-20), Dr. Shandra D. Greig, a Board-certified family practitioner, reported a November 29, 2021 work-related motor vehicle accident with "no physical injury, but severe anxiety afterward." She noted an earlier motor vehicle accident in 2001. Dr. Greig diagnosed post-traumatic stress disorder (PTSD) and indicated that appellant had mental health impairment due to PTSD and could resume regular work January 17, 2022. She indicated by a checking a box marked "Yes" that the PTSD was due to the November 29, 2021, the motor vehicle accident. In an accompanying January 12, 2022 report, Dr. Greig reported on his past medical/surgical history and current symptoms. She provided an assessment of depression with anxiety, PTSD and acute reaction to stress and indicated that psychological counseling would be ongoing. Dr. Greig released appellant to return to work on January 17, 2022.

By decision dated February 4, 2022, OWCP denied appellant's claim, finding that the evidence of record was insufficient to establish a medical condition causally related to the accepted employment incident.

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 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, 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 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 specific employment incident identified by the claimant.[8]

In any case where a preexisting condition involving the same part of the body is present and the issue of causal relationship, therefore, involves aggravation, acceleration or precipitation,

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[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).

[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] *A.C.*, Docket No. 21-1307 (issued March 22, 2022); *A.S.*, Docket No. 19-1955 (issued April 9, 2020); *Leslie C. Moore*, 52 ECAB 132 (2000).

the physician must provide a rationalized medical opinion that differentiates between the effects of the work-related injury or disease and the preexisting condition.[9]

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish a medical condition causally related to the accepted November 29, 2021 employment incident.

Dr. Orr cosigned a November 30, 2021 report, authored by a certified physician assistant, which noted the history of the November 29, 2021 employment incident and provided assessments of neck strain, right trapezius muscle strain, and left trapezius muscle strain. He also submitted a December 7, 2021 form report, which noted the history of the November 29, 2021 employment incident and diagnosed crashing of motor vehicle and acute stress reaction. Dr. Greig, in a January 12, 2022 report, also noted the history of the November 29, 2021 work-related motor vehicle accident. She diagnosed depression with anxiety, PTSD, and acute reaction to stress.

In their narrative reports dated November 30, 2021 and January 12, 2022, as well as a December 7, 2021 form report, Dr. Orr and Dr. Greig noted the history of the November 9, 2021 work-related motor vehicle accident and diagnosed medical conditions. However, neither physician provided an opinion on causal relationship. The Board has held, medical evidence which does not offer an opinion regarding the cause of an employee's condition is of no probative value on the issue of causal relationship.[10] The Board finds that these reports are, therefore, insufficient to establish appellant's claim.

In a Form CA-20 dated January 12, 2022, Dr. Grieg indicated by checking a box marked "Yes" that appellant's PTSD was causally related to the accepted November 29, 2021 employment incident. The Board has held, however, that an opinion on causal relationship which consists of a physician checking a box in response to a form question, without more by way of supporting medical rationale explaining how the employment activity caused the diagnosed condition, is of little probative value.[11]

OWCP also received a December 30, 2021 report from a nurse and a series of work excuse notes from a nurse practitioner. The Board has held that certain healthcare providers such as nurses and nurse practitioners are not considered physicians as defined under FECA.[12] Consequently,

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[9] Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3e (January 2013); *M.B.*, Docket No. 20-1275 (issued January 29, 2021); *see R.D.*, Docket No. 18-1551 (issued March 1, 2019).

[10] *See L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

[11] *See S.H.*, Docket No. 22-0391 (issued June 29, 2022); *O.N.*, Docket No. 20-0902 (issued May 21, 2021); *Lillian M. Jones*, 34 ECAB 379 (1982).

[12] Section 8102(2) of FECA provides as follows: (2) 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 supra* note 9 at 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 L.S.*, Docket No. 19-1231 (issued March 30, 2021) (a nurse practitioner is not considered a physician as defined under FECA).

their medical findings and/or opinions will not suffice for purposes of establishing entitlement to FECA benefits.

Appellant also submitted a November 30, 2021 report bearing an illegible signature. 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.[13] Therefore, this report has no probative value and is insufficient to establish the claim.

As the medical evidence of record is insufficient to establish that appellant's diagnosed conditions were causally related to the accepted November 29, 2021 employment incident, the Board finds that he 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 of proof to establish a medical condition causally related to the accepted November 29, 2021 employment incident.

ORDER

IT IS HEREBY ORDERED THAT the February 4, 2022 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: September 27, 2022
Washington, DC

Patricia H. Fitzgerald, Deputy 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] *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).