

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

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G.M., Appellant)	
)	
and)	Docket No. 22-0662
)	Issued: September 15, 2022
U.S. POSTAL SERVICE, MINNEAPOLIS POST)	
OFFICE, Minneapolis, MN, Employer)	
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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 March 17, 2022 appellant filed a timely appeal from a September 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 his burden of proof to establish a medical condition causally related to the accepted July 13, 2021 employment incident.

¹ 5 U.S.C. § 8101 *et seq.*

FACTUAL HISTORY

On July 20, 2021 appellant, then a 73-year-old postal support employee, filed a traumatic injury claim (Form CA-1) alleging that on July 13, 2021 he sustained lower back pain as a result of lifting while in the performance of duty. He stopped work on July 20, 2021.

OWCP received medical reports dated April 27 and May 10, 2005, which related that appellant was seen for low back complaints by Dr. Primepares Pal, a Board-certified internist. Dr. Pal diagnosed advanced degenerative disc disease at L5-S1.

In a note dated July 20, 2021, Dr. Jason Eggers, Board-certified in physical medicine and rehabilitation, indicated that appellant was unable to work due to a lower back injury.

In a narrative report dated July 20, 2021, Dr. Eggers related that he had examined appellant for complaints of lower back pain. He noted that appellant had a longstanding history of back pain with worsening pain for about a month. Appellant noted that he had been repetitively lifting heavy parcels from an all-purpose container at the employing establishment, and stated that the problem began on June 26, 2021. Dr. Eggers diagnosed bilateral lumbar radiculopathy and a work-related injury.

The employing establishment challenged appellant's claim in a letter dated August 9, 2021.

In a development letter dated August 9, 2021, OWCP informed appellant of the deficiencies of his claim. It advised him of the type of evidence needed and provided a questionnaire for his completion. OWCP afforded appellant 30 days to respond.

A magnetic resonance imaging (MRI) scan of appellant's lumbar spine dated July 30, 2021 demonstrated progression of facet arthrosis and spondylosis since 2005 with resultant new marked canal and recess stenosis at L2-L3 and L3-L4 with multiple nerves compressed; foraminal stenosis, moderate/marked bilaterally at L5-S1 and on the right at L3-L4, either the same or slightly worse; facet arthrosis marked on the right and moderate/marked on the left at L3-L4, moderate at L2-L3 and on the right at L4-L5, worse; and edema at interspinous ligaments from L3 through L5, possibly reflecting a strain injury.

In a report dated August 3, 2021, Dr. Eggers indicated that he had reviewed the results of appellant's July 30, 2021 lumbar MRI scan. He diagnosed bilateral lumbar radiculopathy and work-related injury. Dr. Eggers recommended a right interlaminar epidural steroid injection at L4-S1.

Appellant replied to OWCP's development questionnaire on August 20, 2021. He explained that on July 13, 2021, while in the performance of duty, he picked up a tray from the bottom of an all-purpose container and experienced a sharp pain in his lower back down the right leg. On July 14, 2021 appellant lifted five boxes weighing 40 to 45 pounds from the bottom of an all-purpose container and scanned them.

In a note dated August 3, 2021, Dr. Eggers indicated that appellant was unable to work until his follow-up appointment after an injection. On August 23, 2021 he recommended that appellant return to work without restrictions beginning August 26, 2021.

By decision dated September 27, 2021, OWCP denied appellant's claim, finding that the medical evidence of record was insufficient to establish causal relationship between his diagnosed conditions and the accepted employment incident of July 13, 2021. It concluded, therefore, that the requirements had not been met to establish that he sustained an injury and/or medical condition causally related to 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

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 a 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

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 *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).

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish a medical condition causally related to the accepted July 13, 2021 employment incident.

In support of his traumatic injury claim of July 13, 2021, appellant submitted reports from Dr. Eggers. In a report dated July 20, 2021, Dr. Eggers examined appellant for complaints of lower back pain. He noted that appellant had a longstanding history of back pain with worsening pain for about a month. Dr. Eggers diagnosed bilateral lumbar radiculopathy and a work-related injury. In a report dated August 3, 2021, he reviewed the results of appellant's July 30, 2021 lumbar MRI scan with appellant. Dr. Eggers diagnosed bilateral lumbar radiculopathy and work-related injury. While these reports reviewed appellant's history of injury and contained medical diagnoses, they did not offer any medical opinion regarding the cause of appellant's diagnosed conditions. This is especially important as appellant has significant preexisting lumbar conditions.⁹ 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.¹⁰

Appellant submitted notes signed by Dr. Eggers dated July 20 and August 3 and 23, 2021. However, Dr. Egger did not provide an opinion on causal relationship between a diagnosed medical condition and the accepted employment incident. The Board has held that reports that do not provide an opinion on causal relationship are of no probative value.¹¹ As such, this evidence is of no probative value and, thus, is insufficient to establish appellant's claim.

As appellant has not submitted rationalized medical evidence establishing a medical condition causally related to the accepted employment incident of July 13, 2021, 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 July 13, 2021 employment incident.

⁹ See *S.B.*, Docket No. 17-0254 (issued July 20, 2018).

¹⁰ *D.C.*, Docket No. 19-1093 (issued June 25, 2020); see *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

¹¹ See *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, *id.*.

ORDER

IT IS HEREBY ORDERED THAT the September 27, 2021 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: September 15, 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