

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

|                                                |   |                               |
|------------------------------------------------|---|-------------------------------|
| E.A., Appellant                                | ) |                               |
|                                                | ) |                               |
| and                                            | ) | <b>Docket No. 21-0620</b>     |
|                                                | ) | <b>Issued: April 11, 2023</b> |
| DEPARTMENT OF THE AIR FORCE, 436 <sup>TH</sup> | ) |                               |
| CIVIL ENGINEER SQUADRON, DOVER AIR             | ) |                               |
| FORCE BASE, DE, 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  
PATRICIA H. FITZGERALD, Deputy Chief Judge  
VALERIE D. EVANS-HARRELL, Alternate Judge

**JURISDICTION**

On January 27, 2021 appellant filed a timely appeal from an August 3, 2020 merit decision of the Office of Workers' Compensation Programs (OWCP).<sup>1</sup> Pursuant to the Federal Employees' Compensation Act<sup>2</sup> (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.<sup>3</sup>

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<sup>1</sup> Under the Board's *Rules of Procedure*, an appeal must be filed within 180 days from the date of issuance of an OWCP decision. An appeal is considered filed upon receipt by the Clerk of the Appellate Boards. See 20 C.F.R. § 501.3(e)-(f). One hundred and eighty days from August 3, 2020, the date of OWCP's last decision, was January 30, 2021. Because using March 9, 2021, the date the appeal was received by the Clerk of the Appellate Boards, would result in the loss of appeal rights, the date of the postmark is considered the date of filing. The date of the U.S. Postal Service postmark is January 27, 2021, rendering the appeal timely filed. See 20 C.F.R. § 501.3(f)(1).

<sup>2</sup> 5 U.S.C. § 8101 *et seq.*

<sup>3</sup> The Board notes that following the August 3, 2020 decision, OWCP received additional evidence. However, the Board's *Rules of Procedure* provides: "The Board's review of a case is limited to the evidence in the case record that was before OWCP at the time of its final decision. Evidence not before OWCP will not be considered by the Board for the first time on appeal." 20 C.F.R. § 501.2(c)(1). Thus, the Board is precluded from reviewing this additional evidence for the first time on appeal. *Id.*

## ISSUE

The issue is whether appellant has met his burden of proof to establish a back condition causally related to the accepted January 29, 2020 employment incident.

## FACTUAL HISTORY

On February 20, 2020 appellant, then a 56-year-old heating vent and air condition (HVAC) mechanic, filed a traumatic injury claim (Form CA-1) alleging that on January 29, 2020 he injured his lower/mid back when he climbed into a truck and twisted his back while in the performance of duty.<sup>4</sup> He stopped work on the date of injury and returned to full-duty work without restrictions on March 14, 2020.

Appellant submitted a March 22, 2018 medical report in which Dr. Parvathi Somasundaram, Board-certified in occupational medicine, noted that he injured his back on March 21, 2018 when he reached to open and close a valve over his head while at work. Dr. Somasundaram further noted that x-rays of his lumbar spine revealed multilevel degenerative disc disease and facet arthropathy, most prominent at L4-5 and L5-S1. She diagnosed a strain of the lumbar region, a lumbar sprain, acute midline low back pain without sciatica, and an overextension from twisting.

In a development letter dated February 26, 2020, OWCP advised appellant of the deficiencies of his claim. It informed him of the type of factual and medical evidence necessary to establish his claim and provided a development questionnaire for his completion. OWCP afforded appellant 30 days to provide the necessary information.

In a February 3, 2020 form report, Dr. Lyndon B. Cagampan, a Board-certified physiatrist, indicated that appellant aggravated his lower back on January 29, 2020.

In medical reports dated from February 3 to March 2, 2020, Dr. Cagampan noted that appellant experienced pain in his lower back on January 29, 2020 when he pulled himself into a work vehicle. He noted a history of chronic lower back pain, which he related had worsened due to the heavy nature of his work duties. Dr. Cagampan reviewed a magnetic resonance imaging (MRI) scan of the lumbar spine that revealed a disc bulge and facet arthropathy at L4-5, central small disc protrusions at L5-S1, as well as degenerative disc disease at L4-S1. He performed a physical examination, which revealed tenderness and spasm of the lumbar paraspinal muscles. Dr. Cagampan diagnosed lumbosacral degenerative disc disease, a bulging lumbar disc, facet joint syndrome, and low back pain.

Physical therapy reports from Jason Mohacey, a physical therapist dated March 3 and 4, 2020, were submitted.

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<sup>4</sup> Appellant previously filed a Form CA-1 claim for a March 21, 2018 low back injury, to which OWCP assigned File No. xxxxxx948. It designated the March 21, 2018 claim as a short form closure. OWCP has not administratively combined File No. xxxxxx948 with the current claim.

In a March 6, 2020 duty status report (Form CA-17), Dr. Cagampan diagnosed low back pain and advised that appellant was capable of returning to work with restrictions on March 14, 2020.

In a statement received by OWCP on March 10, 2020, R.R., appellant's coworker, explained that on January 29, 2020 they were checking a mechanical room at approximately 2:15 p.m. As they were leaving, appellant climbed into a work truck and made some loud noises. At that time, he informed R.R. that his back was completely out.

By decision dated March 27, 2020, OWCP denied appellant's traumatic injury claim, finding that the medical evidence of record was insufficient to establish causal relationship between his diagnosed lumbar condition and the accepted January 29, 2020 employment incident.

Appellant submitted physical therapy reports dated from March 5 to April 2, 2020 detailing his treatment for low back pain and muscle spasms of the back.

In medical reports dated March 13 and April 3, 2020, Dr. Cagampan continued to evaluate appellant for his low back pain. He diagnosed lumbosacral degenerative disc disease, a bulging lumbar disc, facet joint syndrome and low back pain. Dr. Cagampan opined that appellant's lower back pain was causally related to the January 29, 2020 employment incident, asserting that he was working full time with just mild aches in his lower back prior to his injury.

On March 31, 2020 appellant requested a review of the written record by a representative of OWCP's Branch of Hearings and Review. He attached a statement in which he detailed his employment history of 38 years.

In a February 4, 2020 diagnostic report, Dr. Michael Yuz, a Board-certified radiologist, performed an MRI scan of appellant's lumbar spine, observing an L5-S1 annular tear, an L4-S1 annular tear, as well as disc bulges at L1-2, L2-3, and L3-4.

Dr. Manu Sehga, a Board-certified internist, provided a February 18, 2020 physical therapy treatment plan for appellant's low back pain.

Appellant submitted additional physical therapy reports from Mr. Mohacey, including a January 23, 2020 report, which noted that appellant related complaints of lower back pain due to a 2018 work injury followed by years of ongoing heavy-duty work as an HVAC technician. Additional reports were dated January 27 through April 14, 2020.

In medical reports dated May 1 and 15, 2020, Dr. Cagampan observed that appellant had completed his physical therapy treatment for his low back pain and later aggravated his back while performing yard work. He diagnosed lumbosacral degenerative disc disease, a bulging lumbar disc, facet joint syndrome and low back pain. Dr. Cagampan opined that appellant's lower back pain was causally related to the January 29, 2020 employment incident, explaining that he was working full time with just mild aches in his lower back prior to his injury.

In a report dated June 26, 2020, Dr. Cagampan noted that appellant related that his lower back and leg symptoms were 100 percent improved, and that he had retired from federal service.

By decision dated August 3, 2020, OWCP's hearing representative affirmed the March 27, 2020 decision.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA<sup>5</sup> 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,<sup>6</sup> 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.<sup>7</sup> 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.<sup>8</sup>

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 this component can be established only by medical evidence.<sup>9</sup>

Causal relationship is a medical question that requires rationalized medical opinion evidence to resolve the issue.<sup>10</sup> A physician's opinion on whether there is causal relationship between the diagnosed condition and the accepted employment incident must be based on a complete factual and medical background. Additionally, the physician's opinion must be expressed in terms of a reasonable degree of medical certainty, and must be supported by medical rationale, explaining the nature of the relationship between the diagnosed condition and the specific employment incident.<sup>11</sup>

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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<sup>5</sup> *Supra* note 2.

<sup>6</sup> *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).

<sup>7</sup> *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).

<sup>8</sup> *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).

<sup>9</sup> *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).

<sup>10</sup> *L.S.*, Docket No. 19-1769 (issued July 10, 2020); *Jacqueline M. Nixon-Steward*, 52 ECAB 140 (2000).

<sup>11</sup> *B.C.*, Docket No. 20-0221 (issued July 10, 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.<sup>12</sup>

### ANALYSIS

The Board finds that appellant has not met his burden of proof to establish a back condition causally related to the accepted January 29, 2020 employment incident.

Dr. Cagampan, in medical reports dated March 13 through June 26, 2020, diagnosed lumbosacral degenerative disc disease, a bulging lumbar disc, facet joint syndrome, and low back pain. He explained that appellant was able to perform his full-duty job with only mild aches in the lower back prior to January 29, 2020 and, therefore, the employment incident caused an aggravation of his low back pain. The Board has held that the fact that a condition manifests itself during a period of employment is insufficient to establish causal relationship. Temporal relationship alone will not suffice.<sup>13</sup> Furthermore, Dr. Cagampan noted preexisting aches; however, he does not provide medical rationale differentiating between the effects of the work-related injury and the preexisting conditions.<sup>14</sup> As noted above, the Board has held that a report is of limited probative value regarding causal relationship if it does not contain medical rationale explaining how an employment activity could have caused or aggravated a medical condition.<sup>15</sup> For these reasons, these reports are insufficient to establish appellant's burden of proof.

In medical reports dated February 3 through March 2, 2020, Dr. Cagampan noted that appellant related a history of back pain after lifting himself into a truck while working on January 29, 2020. He diagnosed lumbosacral degenerative disc disease, a bulging lumbar disc, facet joint syndrome, and low back pain. Dr. Cagampan did not, however, offer an opinion as to whether these diagnosed conditions were causally related to the accepted employment injury. 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.<sup>16</sup> Therefore, these additional reports of Dr. Cagampan are also insufficient to establish appellant's claim.

In a note dated February 18, 2020, Dr. Sehga provided a physical therapy treatment plan for appellant's low back pain. However, he offered no opinion on causal relationship. As noted

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<sup>12</sup> Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3e (January 2013). See *R.D.*, Docket No. 18-1551 (issued March 1, 2019).

<sup>13</sup> *R.G.*, Docket No. 21-1238 (issued May 9, 2022); *Z.S.*, Docket No. 19-1010 (issued October 1, 2020); *S.S.*, Docket No. 19-0675 (issued August 22, 2019); *M.H.*, Docket No. 18-1737 (issued March 13, 2019); *Daniel O. Vasquez*, 57 ECAB 559 (2006).

<sup>14</sup> See, e.g., *J.G.*, Docket No. 20-0009 (issued September 28, 2020); *A.J.*, Docket No. 18-1116 (issued January 23, 2019); *M.F.*, Docket No. 17-1973 (issued December 31, 2018); *J.B.*, Docket No. 17-1870 (issued April 11, 2018); *E.D.*, Docket No. 16-1854 (issued March 3, 2017); *P.O.*, Docket No. 14-1675 (issued December 3, 2015).

<sup>15</sup> *A.S.*, Docket No. 19-1955 (issued April 9, 2020); *Leslie C. Moore*, 52 ECAB 132 (2000).

<sup>16</sup> See *S.S.*, Docket No. 21-0837 (issued November 23, 2021); *J.M.*, Docket No. 19-1926 (issued March 19, 2021); *L.D.*, Docket No. 20-0894 (issued January 26, 2021); *T.F.*, Docket No. 18-0447 (issued February 5, 2020); *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

above, 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.<sup>17</sup>

OWCP also received reports dated January 23 through April 14, 2020 by Mr. Mohacey, a physical therapist. This Board has long held that certain healthcare providers such as physical therapists are not considered physicians as defined under FECA.<sup>18</sup> Their medical findings, reports and/or opinions, unless cosigned by a qualified physician, will not suffice for purposes of establishing entitlement to FECA benefits.<sup>19</sup> Consequently, these reports are also insufficient to meet appellant's burden of proof.

The remaining evidence of record consisted of a report of an MRI scan of the lumbar spine dated February 4, 2020. As the Board has held, diagnostic studies, standing alone, lack probative value and are insufficient to establish the claim.<sup>20</sup> Consequently, this additional evidence is insufficient to meet appellant's burden of proof.

As the medical evidence of record is insufficient to establish a medical condition causally related to the accepted January 29, 2020 employment incident, the Board finds that 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 of proof to establish a medical condition causally related to the accepted January 29, 2020 employment incident.<sup>21</sup>

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<sup>17</sup> *Id.*

<sup>18</sup> 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); *A.M.*, Docket No. 20-1575 (issued May 24, 2021) (physical therapists are not physicians as defined by FECA); *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).

<sup>19</sup> *K.W.*, 59 ECAB 271, 279 (2007); *David P. Sawchuk*, *id.*

<sup>20</sup> *J.K.*, Docket No. 20-0591 (issued August 12, 2020); *A.B.*, Docket No. 17-0301 (issued May 19, 2017).

<sup>21</sup> In so far as appellant described an injury due to employment duties over his years of employment, appellant may file an occupational disease claim.

**ORDER**

**IT IS HEREBY ORDERED THAT** the August 3, 2020 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: April 11, 2023  
Washington, DC

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

Patricia H. Fitzgerald, Deputy Chief Judge  
Employees' Compensation Appeals Board

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