

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

S.C., Appellant	)	
	)	
and	)	<b>Docket No. 21-0929</b>
	)	<b>Issued: April 28, 2023</b>
U.S. POSTAL SERVICE, MINNEAPOLIS POST	)	
OFFICE, Minneapolis, MN, Employer	)	
	)	

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

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:  
JANICE B. ASKIN, Judge  
VALERIE D. EVANS-HARRELL, Alternate Judge  
JAMES D. MCGINLEY, Alternate Judge

**JURISDICTION**

On June 2, 2021 appellant filed a timely appeal from a March 16, 2021 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act<sup>1</sup> (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 23, 2020 employment incident.

**FACTUAL HISTORY**

On September 11, 2020 appellant, then a 57-year-old sales/service/distribution associate, filed a traumatic injury claim (Form CA-1) alleging that on July 23, 2020 he sustained injuries to

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<sup>1</sup> 5 U.S.C. § 8101 *et seq.*

his right wrist and left side when he ran out of the employing establishment to assist a customer and tripped and fell in the parking lot while in the performance of duty. He did not stop work.

In a September 16, 2020 development letter, OWCP informed appellant that it had received no evidence in support of his claim. It advised him of the type of factual and medical evidence necessary and provided a questionnaire for his completion. OWCP afforded appellant 30 days to respond.

In an undated response to OWCP's development questionnaire, appellant explained that on July 23, 2020 a customer left the employing establishment without taking the stamps she purchased. While following the customer to the parking lot to hand her the stamps, he tripped and fell on the edge of the sidewalk. Appellant related that he felt pain in his right wrist and left side and also felt like the wind had been knocked out of him.

In an urgent care note dated July 23, 2020, Megan Elizabeth Hazel, a physician assistant, noted that appellant related a history of falling one hour ago onto an outstretched right arm, injuring his right wrist. On examination, she documented decreased range of motion and pain with flexion and extension, bony tenderness of the ulnar styloid, and swelling at the ulnar side of the wrist. Ms. Hazel noted that appellant's wrist x-rays were negative, and she diagnosed a wrist sprain.

On July 26, 2020 appellant sought treatment in the emergency room for left upper quadrant pain, fever, and a cough. Dr. Benjamin Peake, an emergency medicine physician, noted that he related a history of falling onto appellant's left lower chest/left upper quadrant. He performed a physical examination and documented soft, nondistended bruising in the left upper quadrant with mild tenderness. A computerized tomography (CT) scan of the abdomen revealed a subcapsular splenic hematoma with no active bleeding. Dr. Peake diagnosed a spleen hematoma and recommended that appellant not engage in any vigorous activity for two months.

In a note dated July 28, 2020, Rebeca Leuer, a registered nurse, noted that appellant related complaints of increased abdominal pain and fever. She recommended that he return to the emergency room for further evaluation.

Appellant returned to the emergency room on July 29, 2020 and underwent an updated abdominal CT scan and further evaluation. Dr. Thomas R. Stewart, an emergency medicine physician, indicated that appellant complained of abdominal distension which he attributed to a trip and fall at work six days prior. The updated abdominal CT scan revealed hemorrhagic appearing material around the spleen with a mild amount of free fluid around the liver and pericolic gutters, but no splenic lacerations. Dr. Stewart diagnosed a spleen hematoma and recommended appellant follow up with his primary care physician.

In a July 30, 2020 medical report, Dr. Jessica Dailey, a Board-certified family medicine specialist, noted a history of appellant tripping at work seven days prior with subsequent abdominal distention. She reviewed his CT scan results, examined him, and diagnosed a spleen hematoma.

On September 9, 2020 appellant was taken to the hospital and admitted for complaints of left upper quadrant pain, lower back spasms, and abdominal swelling. He related a history of ongoing left side pain and nausea since falling and injuring his ribs/spleen six weeks prior to the responding paramedic. Dr. Richard Brian Jones, an emergency medicine physician, noted that appellant described tripping and falling at work on July 23, 2020 injuring the right wrist and then

developing fever and abdominal pain. At the time of the September 9, 2020 admission, he related persistent and worsening left-sided abdominal pain and distention as well as an upset stomach when appellant ate. Dr. Jones recommended a new CT scan of the abdomen, which revealed that the subcapsular splenic hematoma had substantially increased in size compared with the July 29, 2020 study. Appellant was then evaluated by Dr. Mark William Eaton, a Board-certified family physician, who recommended a consultation with general surgery.

On September 10, 2020 appellant underwent an ultrasound-guided splenic hematoma drainage catheter placement with moderate sedation by Dr. Mathew Jeremiah So, a diagnostic radiologist.

On September 13, 2020 appellant was discharged from the hospital. Dr. Ben Van Vranken, a Board-certified internist, recommended that appellant remain off from work for one week, after which appellant could return to work with restrictions of no lifting, pushing or pulling more than five pounds for one month, which could increase by an additional five pounds per week as tolerated. He also recommended that appellant avoid any high-risk strenuous core activities for three months.

By decision dated October 26, 2020, OWCP denied appellant's claim, finding that the evidence of record was insufficient to establish a causal relationship between his diagnosed conditions and the accepted July 23, 2020 employment incident.

OWCP continued to receive evidence, including a September 17, 2020 follow-up note by Dr. Dailey, who noted that appellant's condition had improved since being discharged from the hospital.

In a report dated September 22, 2020, Dr. Brian Francis Decesare, a Board-certified radiologist, noted that appellant related a history of complications with his drain tube. He removed a tube and recommended close monitoring.

On November 19, 2020 appellant requested a review of the written record by a representative of OWCP's Branch of Hearings and Review. In support of his request, he submitted an updated statement dated October 28, 2020 noting that the day after he fell, he began to feel pain under his left ribs.

By decision dated March 16, 2021, OWCP's hearing representative affirmed the October 26, 2020 decision.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA<sup>2</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>3</sup> that an injury was sustained in the performance of duty as alleged, and that

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<sup>2</sup> *Id.*

<sup>3</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).

any disability or medical condition for which compensation is claimed is causally related to the employment injury.<sup>4</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>5</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. First, 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. Second, the employee must submit sufficient evidence to establish that the employment incident caused a personal injury.<sup>6</sup>

The medical evidence required to establish causal relationship between a claimed specific condition and an employment incident is rationalized medical opinion evidence.<sup>7</sup> 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 employment incident identified by the employee.<sup>8</sup>

### ANALYSIS

The Board finds that appellant has met his burden of proof to establish right wrist swelling and an abdominal bruise in the left upper quadrant causally related to the accepted July 23, 2020 employment incident.

In her July 23, 2020 note, Ms. Hazel related that appellant reported falling, one hour prior to the examination, onto an outstretched right arm and, on examination, she documented swelling at the ulnar side of the wrist. On July 26, 2020 Dr. Peake indicated that appellant related complaints of left upper quadrant pain and a history of falling onto his left lower chest/left upper quadrant. On examination, he documented soft, nondistended bruising in the left upper quadrant with mild tenderness. OWCP's procedures provide that, if a condition reported is a minor one, such as a burn, laceration, insect sting, or animal bite, which can be identified on visual inspection by a lay person, a case may be accepted without a medical report.<sup>9</sup> As the evidence of record

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<sup>4</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>5</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>6</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>7</sup> *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).

<sup>8</sup> *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).

<sup>9</sup> See Federal (FECA) Procedure Manual, Part 2 -- Claims, *Initial Development of Claims*, Chapter 2.800.6a (June 2011); *id.* at Chapter 2.805.3c (January 2013). See also *R.H.*, Docket No. 20-1684 (issued August 27, 2021); *A.J.*, Docket No. 20-0484 (issued September 2, 2020).

establishes visible injuries, the Board finds that appellant has met his burden of proof to establish right wrist swelling and abdominal bruising in the left upper quadrant causally related to the accepted July 23, 2020 employment incident.<sup>10</sup> The case will, therefore, be remanded for payment of medical expenses and any attendant disability.

The Board further finds, however, that appellant has not met his burden of proof to establish additional medical conditions causally related to the accepted July 23, 2020 employment injury.

Although Dr. Peake, in his July 26, 2020 report, noted that appellant related falling onto his left lower chest/left upper quadrant and additionally diagnosed appellant a spleen hematoma, he did not explain a pathophysiological process of how the accepted July 23, 2020 employment incident caused or contributed to appellant's spleen condition.<sup>11</sup> The Board has held that a medical opinion that does not offer a medically-sound and rationalized explanation by the physician of how the specific employment incident physiologically caused or aggravated the diagnosed conditions is of limited probative value.<sup>12</sup> Therefore, Dr. Peake's July 26, 2020 report is insufficient to establish appellant's claim.

In their various reports, Drs. Stewart, Dailey, Jones, Eaton, So, Van Vranken, and Decesare examined appellant and diagnosed a spleen hematoma. However, none of these providers offered an opinion on causal relationship. The Board has held that medical evidence that does not offer an opinion regarding the cause of an employee's condition or disability is of no probative value on the issue of causal relationship.<sup>13</sup> Therefore, these reports are also insufficient to establish appellant's claim.

In her July 23, 2020 note, Ms. Hazel examined appellant and diagnosed a wrist sprain. This report has no probative value, however, because physician assistants are not considered physicians as defined under FECA.<sup>14</sup>

As the record lacks rationalized medical evidence establishing causal relationship between appellant's additional medical conditions and the accepted July 23, 2020 employment incident, the Board finds that he has not met his burden of proof.

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<sup>10</sup> See *R.H., id.*; *A.J., id.*; see also *W.R.*, Docket No. 20-1101 (issued January 26, 2021); *S.K.*, Docket No. 18-1411 (issued July 22, 2020).

<sup>11</sup> *J.D.*, Docket No. 19-1953 (issued January 11, 2021); *J.C.*, Docket No. 18-1474 (issued March 20, 2019); *M.M.*, Docket No. 15-0607 (issued May 15, 2015); *M.W.*, Docket No. 14-1664 (issued December 5, 2014).

<sup>12</sup> *J.B.*, Docket No. 21-0011 (issued April 20, 2021); *A.M.*, Docket No. 19-1394 (issued February 23, 2021).

<sup>13</sup> See *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

<sup>14</sup> 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 *A.P.*, Docket No. 22-1084 (issued March 8, 2023) (physician assistants are not considered physicians as defined by FECA and, therefore, are not competent to provide a medical opinion).

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 met his burden of proof to establish right wrist swelling and abdominal bruising in the left upper quadrant causally related to the accepted July 23, 2020 employment incident. The Board further finds, however, that he has not met his burden of proof to establish additional medical conditions causally related to the accepted July 23, 2020 employment injury.

**ORDER**

**IT IS HEREBY ORDERED THAT** the March 16, 2021 decision of the Office of Workers' Compensation Programs is reversed in part and affirmed in part. The case is remanded for further proceedings consistent with this decision of the Board.

Issued: April 28, 2023  
Washington, DC

Janice B. Askin, Judge  
Employees' Compensation Appeals Board

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

James D. McGinley, Alternate Judge  
Employees' Compensation Appeals Board