United States Department of Labor
Employees' Compensation Appeals Board

G.W., Appellant	)	
	)	
and	)	**Docket No. 22-1359**
	)	**Issued: April 26, 2023**
U.S. POSTAL SERVICE, SUTTER CREEK POST OFFICE, Sutter Creek, CA, 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 September 26, 2022 appellant filed a timely appeal from a July 1, 2022 merit decision of the Office of Workers' Compensation Programs. 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 in connection with the accepted February 18, 2022 employment incident.

FACTUAL HISTORY

On March 16, 2022 appellant, then a 58-year-old rural carrier associate, filed a traumatic injury claim (Form CA-1) alleging that on February 18, 2022 he twisted his right knee, resulting

[1] 5 U.S.C. § 8101 *et seq.*

in a right knee strain, when he walked through an area with debris and children's toys while in the performance of duty. He stopped work on February 23, 2022.

OWCP received a February 23, 2022 work slip by Kelly Marie Grigoriyan, a nurse practitioner. It also received an unsigned emergency department discharge note of even date indicating that appellant was treated for right knee pain.

In a March 11, 2022 report, Dr. Kamalpreet Dulai, a Board-certified family practitioner, returned appellant to modified duty from March 9 through April 10, 2022. She noted work restrictions limiting lifting, pulling, and pushing to 10 pounds, no climbing stairs, no prolonged standing, and limited walking.

In a report dated April 12, 2022, Dr. Zachary Marks, a Board-certified internist, provided work restrictions through May 12, 2022.

On April 21, 2022 appellant filed a claim for compensation (Form CA-7) for disability from work for the period February 23 through May 5, 2022.

In a development letter dated May 19, 2022, OWCP informed appellant of the deficiencies of his claim. It advised him of the type of factual and medical evidence needed. OWCP afforded appellant 30 days to submit the necessary evidence.

Thereafter, OWCP received a series of CA-7 claims for compensation for the period February 23 through May 21, 2022, earnings and leave statements for the period February 12 through May 20, 2022, and a May 11, 2022 time analysis form (Form CA-7a) indicating that appellant had returned to part-time light-duty work on April 6, 2022.

By decision dated July 1, 2022, OWCP denied appellant's traumatic injury claim, finding that the medical evidence of record was insufficient to establish a diagnosed medical condition in connection with the accepted February 18, 2022 employment incident. It concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

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,[3] that the claim was timely filed within the applicable time limitation of FECA, 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.*; *D.M.*, Docket No. 18-1003 (issued July 16, 2020); *L.C.*, Docket No. 19-0503 (issued February 7, 2020); *A.A.*, Docket No. 18-0031 (issued April 5, 2018); *Eugene F. Butler*, 36 ECAB 393, 398 (1984).

[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. First, 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.[6] Second, the employee must submit sufficient evidence to establish that the employment incident caused a personal injury.[7]

The medical evidence required to establish causal relationship between a claimed specific condition and an employment incident is rationalized medical opinion evidence. 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 factors identified by the employee.[8]

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish a diagnosed medical condition in connection with the accepted February 18, 2022 employment incident.

In support of his claim, appellant submitted Dr. Dulai's March 11, 2022 report and Dr. Marks' April 12, 2012 report providing work restrictions. However, neither physician provided a medical diagnosis nor addressed causal relationship. The Board has held that a medical report that does not provide a firm medical diagnosis of a particular condition and a rationalized medical opinion addressing causal relationship is of no probative value.[9] Thus, the opinions of Dr. Dulai and Dr. Marks are insufficient to establish appellant's claim.

Appellant also submitted a February 23, 2022 work slip signed by Ms. Grigoriyan, a nurse practitioner. However, certain healthcare providers such as nurse practitioners are not considered

[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] *D.S.*, Docket No. 17-1422 (issued November 9, 2017); *Elaine Pendleton*, 40 ECAB 1143 (1989).

[7] *B.M.*, Docket No. 17-0796 (issued July 5, 2018); *John J. Carlone*, 41 ECAB 354 (1989).

[8] *K.H.*, Docket No. 22-0489 (issued August 2, 2022); *K.R.*, Docket No. 21-0822 (issued June 28, 2022); *D.R.*, Docket No. 22-0471 (issued June 27, 2022); *M.E.*, Docket No. 22-0091 (issued May 6, 2022); *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] *W.O.*, Docket No. 22-0418 (issued February 15, 2023); *L.E.*, Docket No. 19-0470 (issued August 12, 2019); *M.J.*, Docket No. 18-1114 (issued February 5, 2019); *see also J.B.*, Docket No. 22-0872 (issued August 22, 2022); *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

physicians as defined under FECA.[10] Consequently, their medical findings and/or opinions will not suffice for purposes of establishing entitlement to FECA benefits.[11]

Additionally, appellant submitted unsigned February 23, 2022 emergency department discharge instructions for right knee pain. The Board has held that reports that are unsigned or bear an illegible signature lack proper identification and cannot be considered probative medical evidence because the author cannot be identified as a physician.[12]

As the medical evidence of record is insufficient to establish a diagnosed medical condition in connection with the accepted February 18, 2022 employment incident, the Board finds that appellant has not met his burden of proof to establish his claim.[13]

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 diagnosed medical condition in connection with the accepted February 18, 2022 employment incident.

[10] 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. § 8102(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); *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 B.D.*, Docket No. 22-0503 (issued September 27, 2022) (nurse practitioners are not considered physicians as defined under FECA and their medical findings and/or opinions will not suffice for purposes of establishing entitlement to FECA benefits); *L.S.*, Docket No. 19-1231 (issued March 30, 2021) (a nurse practitioner is not considered a physician as defined under FECA).

[11] *Id.*

[12] *See D.F.*, Docket No. 22-0904 (issued October 31, 2022); *see also R.C.*, Docket No. 19-0376 (issued July 15, 2019); *Merton J. Sills*, 39 ECAB 572, 575 (1988).

[13] *K.H., supra* note 8; *K.R., supra* note 8.

ORDER

IT IS HEREBY ORDERED THAT the July 1, 2022 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: April 26, 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