

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

F.N., Appellant	)	
	)	
and	)	Docket No. 23-0071
	)	Issued: April 7, 2023
U.S. POSTAL SERVICE, SOUTHSIDE ANNEX,	)	
Lebanon, TN, 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  
VALERIE D. EVANS-HARRELL, Alternate Judge  
JAMES D. MCGINLEY, Alternate Judge

**JURISDICTION**

On October 20, 2022 appellant filed a timely appeal from an October 18, 2022 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.<sup>2</sup>

**ISSUE**

The issue is whether appellant has met his burden of proof to establish a medical condition causally related to the accepted June 28, 2022 employment incident.

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

<sup>2</sup> The Board notes that, following the October 18, 2022 decision, OWCP received additional evidence. 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.*

## **FACTUAL HISTORY**

On August 24, 2022 appellant, then a 55-year-old rural carrier, filed a traumatic injury claim (Form CA-1) alleging that on June 28, 2022 he developed a bulging disc in his back and a pinched nerve in his left shoulder when he was rearended by another vehicle while in the performance of duty. He stopped work on June 28, 2022 and returned to work on July 7, 2022.

Appellant submitted reports of diagnostic testing performed on June 28, 2022. A computerized tomography (CT) scan report of his cervical spine noted an impression of moderately severe degenerative right foraminal narrowing at C4-5, moderate C4-5 left foraminal narrowing, moderate C3-4 right foraminal narrowing, and mild degenerative narrowing of the spinal canal in anteroposterior diameter at C4-5. A CT scan report of the lumbar spine noted an impression of L4-5 disc height loss, broad-based posterior disc bulge measuring at least 3 millimeters (mm), facet arthrosis, mild central canal and mild-to-moderate bilateral foraminal narrowing, L5-S1 disc height loss, broad-based posterior disc osteophyte complex measuring 4 mm, right greater than left facet arthrosis with hypertrophy, and moderate right foraminal, mild central canal and mild left foraminal narrowing. A CT scan report of the thoracic spine noted an impression of no acute traumatic findings.

In a June 30, 2022 return to work note, an unidentified healthcare provider held appellant off work until July 6, 2022.

On August 31, 2022 the employing establishment executed an authorization for examination and/or treatment (Form CA-16). In Part B of the Form CA-16, attending physician's report, a physician whose signature is illegible related that appellant injured his left shoulder in a motor vehicle accident and diagnosed cervical radiculopathy. The unidentified physician checked a box marked "Yes" to indicate that the condition was caused or aggravated by the employment activity described and returned appellant to regular duty on July 7, 2022.

In a September 15, 2022 development letter, OWCP informed appellant of the deficiencies of his claim. It advised him of the additional factual and medical evidence needed to establish his claim and provided a questionnaire for his completion. OWCP afforded appellant 30 days to respond.

Thereafter, OWCP received a June 29, 2022 accident report noting that on June 28, 2022 appellant was rearended due to the inattentiveness of the driver.

Appellant also submitted an August 17, 2022 patient chart and an August 31, 2022 summary report from unidentified healthcare providers.

In a September 19, 2022 statement, appellant recounted that on June 28, 2022 at about 10:15 a.m. he was stopped at a mailbox when he was rearended by a woman who was not paying attention.

By decision dated October 18, 2022, OWCP accepted that the June 28, 2022 employment incident occurred as alleged. However, it denied appellant's traumatic injury claim, finding that the evidence of record was insufficient to establish causal relationship between his diagnosed medical condition and the accepted June 28, 2022 employment incident.

## LEGAL PRECEDENT

An employee seeking benefits under FECA<sup>3</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>4</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>5</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>6</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 whether 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.<sup>7</sup>

The medical evidence required to establish causal relationship between a claimed specific condition and an employment incident is rationalized medical opinion evidence.<sup>8</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 specific employment incident identified by the claimant.<sup>9</sup>

## ANALYSIS

The Board finds that appellant has not met his burden of proof to establish a medical condition causally related to the accepted June 28, 2022 employment incident.

Appellant submitted an August 31, 2022 Form CA-16 including Part B, attending physician's report, from a physician whose signature is illegible diagnosing cervical radiculopathy

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<sup>3</sup> *Supra* note 1.

<sup>4</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>5</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>6</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>7</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>8</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>9</sup> *A.S.*, Docket No. 19-1955 (issued April 9, 2020); *Leslie C. Moore*, 52 ECAB 132 (2000).

and relating that appellant injured his left shoulder. The healthcare provider checked a box marked “Yes” to indicate that the condition was caused or aggravated by the described employment activity and returned appellant to regular duty on July 7, 2022. The Board has held that reports that are unsigned or bear an illegible signature lack proper identification and cannot be considered probative medical evidence as the author cannot be identified as a physician.<sup>10</sup> Therefore, this evidence is insufficient to establish appellant’s claim.

Similarly, appellant submitted a June 30, 2022 return to work note, August 17, 2022 patient chart, and August 31, 2022 summary report from unidentified healthcare providers. As these reports lack proper signatures identifying the author as a physician, they cannot be considered probative medical evidence and are insufficient to establish his claim.<sup>11</sup>

The remaining evidence of record includes June 28, 2022 CT scan reports of appellant’s cervical, lumbar, and thoracic spine. The Board has held that diagnostic reports, standing alone, lack probative value on the issue of causal relationship as they do not provide an opinion as to whether the accepted employment incident caused a diagnosed condition.<sup>12</sup> For this reason, this evidence is also insufficient to establish appellant’s claim.

As appellant has not submitted rationalized medical opinion evidence establishing a medical condition causally related to the accepted June 28, 2022 employment incident, the Board finds that he has not met his burden of proof to establish his claim.

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.<sup>13</sup>

### **CONCLUSION**

The Board finds that appellant has not met his burden of proof to establish a medical condition causally related to the accepted June 28, 2022 employment incident.

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<sup>10</sup> *L.B.*, Docket No. 21-0353 (issued May 23, 2022); *T.D.*, Docket No. 20-0835 (issued February 2, 2021); *Merton J. Sills*, 39 ECAB 572, 575 (1988).

<sup>11</sup> *Id.*

<sup>12</sup> *W.M.*, Docket No. 19-1853 (issued May 13, 2020); *L.F.*, Docket No. 19-1905 (issued April 10, 2020).

<sup>13</sup> The Board notes that the employing establishment issued a Form CA-16, dated August 31, 2022. A completed Form CA-16 authorization may constitute a contract for payment of medical expenses to a medical facility or physician, when properly executed. The form creates a contractual obligation, which does not involve the employee directly, to pay for the cost of the examination or treatment regardless of the action taken on the claim. *See* 20 C.F.R. § 10.300(c); *V.S.*, Docket No. 20-1034 (issued November 25, 2020); *J.G.*, Docket No. 17-1062 (issued February 13, 2018); *Tracy P. Spillane*, 54 ECAB 608 (2003).

**ORDER**

**IT IS HEREBY ORDERED THAT** the October 18, 2022 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: April 7, 2023  
Washington, DC

Alec J. Koromilas, 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