United States Department of Labor
Employees' Compensation Appeals Board

J.S., Appellant	)	
and	)	**Docket No. 21-1035**
	)	**Issued: February 24, 2023**
DEPARTMENT OF HOMELAND SECURITY, U.S. CUSTOMS AND BORDER PROTECTION, U.S. BORDER PATROL, San Ysidro, 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 June 24, 2021 appellant filed a timely appeal from a May 18, 2021 merit decision of the Office of Workers' Compensation Programs (OWCP). 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.[2]

ISSUE

The issue is whether appellant has met his burden of proof to establish a left ring finger condition causally related to the accepted April 6, 2021 employment incident.

[1] 5 U.S.C. § 8101 *et seq.*

[2] The Board notes that following the May 18, 2021 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.*

FACTUAL HISTORY

On April 6, 2021 appellant, then a 46-year-old border patrol agent, filed a traumatic injury claim (Form CA-1) alleging that on that date he injured his left ring finger when he was reaching into the back of a vehicle he was inspecting and overextended his finger while in the performance of duty. He related that he experienced a sharp pain in his finger extending to the palm of his left hand. Appellant did not stop work.

In an April 12, 2021 development letter, OWCP informed appellant that it had not received any evidence in support 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.

In a medical form report dated April 15, 2021, Dr. Jarrod David Matthei, an occupational medicine specialist, noted that appellant related complaints of persistent pain and locking in his left ring finger which he attributed to a hyperextension injury while pulling up a rear seat during a vehicle inspection on April 6, 2021. He performed a physical examination and noted triggering, exquisite tenderness, and a knot at the base of the left ring finger. Dr. Matthei diagnosed left ring trigger finger and recommended a splint and modified-duty work. He checked a box marked "Yes" indicating that his findings and diagnosis were consistent with appellant's account of the injury.

In a form report dated April 15, 2021, Zeria Cruz Stoller, a physician assistant, released appellant to work with limited use of the left hand.

Dr. Matthei, in a form report dated April 20, 2021, continued to recommend modified work for appellant with limited use of the left hand. He checked a box marked "Yes" to indicate his opinion that the April 6, 2021 injury was a work-related event.

By decision dated May 18, 2021, OWCP denied appellant's traumatic injury claim, finding that the medical evidence of record was insufficient to establish a causal relationship between his diagnosed left ring finger condition and the accepted April 6, 2021 employment incident. Consequently, it found that the requirements had not been met to establish an injury and/or medical condition causally related to the accepted employment incident.

LEGAL PRECEDENT

An employee seeking benefits under FECA[3] 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,[4] 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

[3] *Supra* note 1.

[4] *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).

employment injury.[5] 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.[6]

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 can be established only by medical evidence.[7]

The medical evidence required to establish causal relationship between a claimed specific condition and an employment incident is rationalized medical opinion evidence.[8] A physician's opinion on whether there is causal relationship between the diagnosed condition and the implicated employment incident must be based on a complete factual and medical background.[9] 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 appellant's specific employment incident.[10]

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish a left ring finger condition causally related to the accepted April 6, 2021 employment incident.

In his April 15, 2021 form report, Dr. Matthei noted appellant's history of hyperextending his left ring finger at work on April 6, 2021. He diagnosed left ring trigger finger, and opined that the diagnosis was consistent with the incident described. Similarly, in his April 20, 2021 form report, Dr. Matthei noted, by checking a box marked "Yes," that the April 6, 2021 injury was a work-related event. In both reports, however, he failed to explain with adequate rationale how the accepted employment incident either caused or contributed to appellant's left ring finger condition. The Board has held that a medical opinion should reflect a medically-sound and rationalized explanation by the physician of how the specific employment incident physiologically caused or

[5] *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).

[6] *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).

[7] *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).

[8] *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).

[9] *C.F.*, Docket No. 18-0791 (issued February 26, 2019); *Jacqueline M. Nixon-Steward*, 52 ECAB 140 (2000).

[10] *Id*.

aggravated the diagnosed conditions.[11] Thus, Dr. Matthei's April 15 and 20, 2021 reports are insufficient to establish causal relationship.

The remaining evidence of record consists of the April 15, 2021 form report by Ms. Stoller, a physician assistant. The Board has held that health care providers such as nurses, physician assistants, and physical therapists are not considered physicians under FECA.[12] Thus, their opinions on causal relationship do not constitute rationalized medical opinions and are of no probative value.[13]

As appellant has not submitted rationalized medical evidence establishing causal relationship between his left ring finger condition and the accepted April 6, 2021 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 10.607.15.

CONCLUSION

The Board finds that appellant has not met his burden of proof to establish a left ring finger condition causally related to the accepted April 6, 2021 employment incident.

[11] *T.G.*, Docket No. 21-0175 (issued June 23, 2021); *J.D.*, Docket No. 19-1953 (issued January 11, 2021); *see K.W.*, Docket No. 19-1906 (issued April 1, 2020).

[12] Section 8102(2) of FECA provides that the term 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 also* Federal (FECA) Procedure Manual, Part 2 - Claims, *Causal Relationship*, Chapter 2.805.3a(1) (January 2013); *R.K.*, Docket No. 20-0049 (issued April 10, 2020) (physician assistants are not considered physicians under 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).

[13] *See J.F.*, Docket No. 19-1694 (issued March 18, 2020); *A.A.*, Docket No. 19-0957 (issued October 22, 2019); *Jane A. White*, 34 ECAB 515, 518 (1983).

ORDER

IT IS HEREBY ORDERED THAT the May 18, 2021 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: February 24, 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