

¹ 5 U.S.C. § 8101 *et seq.*

unloaded ammunition from a government vehicle while in the performance of duty. Appellant did not stop work.

In an August 17, 2021 witness statement, Special Agent G.B., confirmed that on May 28, 2021 he observed appellant unloading cases of ammunition. While performing this task, appellant made an audible sound and dropped to one knee. Appellant related that he felt something in his back “pop” and he experienced immediate pain.

A November 8, 2021 x-ray of appellant’s lumbar spine read by Dr. Richard F. McCarthy, a Board-certified diagnostic radiologist, revealed scoliosis and mild degenerative changes.

In a November 8, 2021 report, Dr. Lane Pitts, a Board-certified family practitioner, noted that appellant was seen for further evaluation of lingering low back pain since his May 28, 2021 employment incident. He related that appellant denied any previous chronic back issues. Dr. Pitts opined that appellant’s lumbar spine x-ray revealed scoliosis and degenerative disc and joint disease. Appellant’s listed diagnoses included scoliosis of the lumbosacral spine and lumbar degenerative disc disease. Dr. Pitts concluded that appellant’s “current lingering chronic low back pain symptoms are related to bending over while reaching for ammunition while he was in the performance of federal duties.”

In a November 12, 2021 development letter, OWCP informed appellant of the deficiencies of his claim. It advised him of the type of factual and medical evidence necessary to establish his claim and provided a questionnaire for his completion. OWCP afforded appellant 30 days to respond.

On December 8, 2021 OWCP received appellant’s response to the development questionnaire. He noted experiencing a work-related lumbar sprain in 2017, from which he had recovered within a week. Appellant denied that he waited to report his current injury and explained that he thought it might be a short-term sprain like the previous injury. He also related that he might have preexisting conditions that were aggravated by the claimed May 28, 2021 work incident, but that he had not experienced any back pain since 2017.²

OWCP received an unsigned medical form dated June 4, 2021. A note on the form indicated that appellant had experienced a back strain three to four years prior, and a recurrence of back pain on May 28, 2021.

An unsigned after-visit summary dated June 10, 2021 indicated that appellant was seen by Dr. Pitts on June 10, 2021 for back pain.

By decision dated December 16, 2021, OWCP denied appellant’s claim. It accepted that the May 28, 2021 employment incident occurred as alleged and that a medical condition had been diagnosed. However, OWCP found that the medical evidence of record was insufficient to

² On April 11, 2017 appellant filed a Form CA-1 alleging that he sustained a back injury on April 4, 2017 when he pulled a heavy box towards him. OWCP assigned File No. xxxxxx688. Appellant did not submit any medical evidence in support of the claim.

establish that the May 28, 2021 employment incident caused or aggravated appellant's diagnosed lumbar condition.

A December 10, 2021 magnetic resonance imaging (MRI) scan revealed disc degenerative changes at L4-5 and L5-S1; broad-based disc bulge and right paracentral disc herniation at L4-5 impinging the ventral thecal sac and right lateral recess at this level; and degenerative changes at L5-S1 with no stenosis at the canal or foraminal narrowing.

In a December 17, 2021 report, Dr. Pitts noted that appellant was seen on November 8, 2021, and reported a work-related injury on May 28, 2021, when he picked up a case of ammunition from his vehicle. Appellant related a history of lingering chronic back pain. Dr. Pitts explained that an x-ray of appellant's lumbar spine revealed degenerative changes and scoliosis and an MRI scan revealed a right paracentral disc herniation at the L4-5 level. He concluded that appellant's disc herniation was caused and/or aggravated by the work injury.

On December 21, 2021 appellant requested reconsideration.

In a January 10, 2022 letter, OWCP requested that Dr. Pitts provide additional information to clarify the cause of appellant's diagnosed conditions. It explained that his report was unclear as to whether the May 28, 2021 work incident caused the disc herniation at L4-5, or aggravated a preexisting disc herniation. OWCP requested that Dr. Pitts provide a rationalized opinion explaining how, physiologically, the traumatic lifting injury would cause or aggravate a lumbar disc herniation. It allotted 15 days for the requested information. No additional evidence was received.

By decision dated January 27, 2022, OWCP denied modification of the December 16, 2021 decision.

LEGAL PRECEDENT

An employee seeking benefits under FECA³ has the burden of proof to establish the essential elements of his or her claim, including the fact 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 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

³ *Id.*

⁴ *J.P.*, Docket No. 19-1206 (issued February 11, 2020); *S.B.*, Docket No. 17-1779 (issued February 7, 2018); *J.P.*, 59 ECAB 178 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

⁵ *J.M.*, Docket No. 17-0284 (issued February 7, 2018); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

⁶ *K.M.*, Docket No. 15-1660 (issued September 16, 2016); *L.M.*, Docket No. 13-1402 (issued February 7, 2014); *Delores C. Ellyett*, 41 ECAB 992 (1990).

In order to determine whether a federal employee has sustained a traumatic injury in the performance of duty, OWCP must first determine whether fact of injury has been established.⁷ 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.⁸ Second, the employee must submit evidence to establish that the employment incident caused a personal injury.⁹

To establish causal relationship, the employee must submit rationalized medical opinion evidence.¹⁰ 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 employee.¹¹ The weight of the medical evidence is determined by its reliability, its probative value, its convincing quality, the care of analysis manifested, and the medical rationale expressed in support of the physician's opinion.¹²

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, the physician must provide a rationalized medical opinion that differentiates between the effects of the work-related injury or disease and the preexisting condition.¹³

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish a lumbar condition causally related to the accepted May 28, 2021 employment incident.

An unsigned after visit summary dated June 10, 2021, indicated that appellant was seen by Dr. Pitts for low back 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 as the

⁷ *D.B.*, Docket No. 18-1348 (issued January 4, 2019); *S.P.*, 59 ECAB 184 (2007).

⁸ *D.S.*, Docket No. 17-1422 (issued November 9, 2017); *Bonnie A. Contreras*, 57 ECAB 364 (2006).

⁹ *B.M.*, Docket No. 17-0796 (issued July 5, 2018); *David Apgar*, 57 ECAB 137 (2005); *John J. Carlone*, 41 ECAB 354 (1989).

¹⁰ *See S.A.*, Docket No. 18-0399 (issued October 16, 2018); *see also Robert G. Morris*, 48 ECAB 238 (1996).

¹¹ *M.V.*, Docket No. 18-0884 (issued December 28, 2018); *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 345 (1989).

¹² *James Mack*, 43 ECAB 321 (1991).

¹³ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3e (January 2013); *K.G.*, Docket No. 18-1598 (issued January 7, 2020); *M.S.*, Docket No. 19-0913 (issued November 25, 2019).

author cannot be identified as a physician.¹⁴ As such, this evidence is insufficient to meet appellant's burden of proof.

In a November 8, 2021 report, Dr. Pitts diagnosed scoliosis of the lumbosacral spine, and lumbar degenerative disc disease. He noted that appellant was seen for lingering chronic low back pain and that appellant related that he injured his low back on May 28, 2021, while taking out a case of ammunition from his vehicle. Dr. Pitts opined that the "current lingering chronic low back pain symptoms are related to bending over while reaching for ammunition while he was in the performance of federal duties." In a December 17, 2021 report, he noted that an x-ray of the lumbar spine revealed degenerative changes and scoliosis and an MRI scan revealed a right paracentral disc herniation at the L4-5 level. Dr. Pitts opined that the disc herniation was caused and/or aggravated by the work injury on May 28, 2021. However, he did not provide medical rationale to explain how the accepted May 28, 2021 work incident caused or aggravated appellant's back conditions. The Board has held that medical conclusions unsupported by rationale are of diminished probative value.¹⁵ Furthermore, Dr. Pitts did not differentiate the claimed injury from the symptoms of appellant's preexisting back conditions, including lumbosacral scoliosis and lumbar degenerative disc disease.¹⁶ Therefore, the Board finds that the reports from Dr. Pitts are insufficient to establish appellant's claim.

The record contains a June 4, 2021 unsigned medical history note which refers to a back strain three to four years prior, and a recurrence of back pain on May 28, 2021. 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.¹⁷ As such, this unsigned note is insufficient to establish the claim.

OWCP also received a November 8, 2021 x-ray and a December 10, 2021 MRI scan. However, the Board has held that diagnostic tests, standing alone, lack probative value on the issue of causal relationship as they do not address whether the employment incident caused a diagnosed condition.¹⁸

As there is no medical evidence of record establishing a lumbar condition causally related to the accepted May 28, 2021 employment incident, the Board finds that appellant has not met his burden of proof.

¹⁴ See *L.B.*, Docket No. 21-0353 (issued May 23, 2022); *T.D.*, Docket No. 20-0835 (issued February 2, 2021); *R.C.*, Docket No. 19-0376 (issued July 15, 2019); *Merton J. Sills*, 39 ECAB 572, 575 (1988).

¹⁵ See *H.L.*, Docket No. 22-1058 (issued January 18, 2023); *T.A.*, Docket No. 18-0431 (issued November 7, 2018).

¹⁶ *Supra* note 13.

¹⁷ See *supra* note 14.

¹⁸ *V.Y.*, Docket No. 18-0610 (issued March 6, 2020); *G.S.*, Docket No. 18-1696 (issued March 26, 2019); *A.B.*, Docket No. 17-0301 (issued May 19, 2017).

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 lumbar condition causally related to the accepted May 28, 2021 employment incident.

ORDER

IT IS HEREBY ORDERED THAT the December 16, 2021 and January 27, 2022 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: February 17, 2023
Washington, DC

Patricia H. Fitzgerald, Deputy 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