

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

S.P., Appellant	)	
	)	
and	)	Docket No. 23-0036
	)	Issued: July 10, 2023
U.S. POSTAL SERVICE, SOUTHWEST POST	)	
OFFICE, Washington, DC, Employer	)	
	)	

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

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:  
PATRICIA H. FITZGERALD, Deputy Chief Judge  
VALERIE D. EVANS-HARRELL, Alternate Judge  
JAMES D. MCGINLEY, Alternate Judge

**JURISDICTION**

On October 12, 2022 appellant filed a timely appeal from a June 24, 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 her burden of proof to establish a diagnosed medical condition in connection with the accepted January 10, 2022 employment incident.

---

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

<sup>2</sup> The Board notes that following the June 24, 2022 decision, appellant submitted additional evidence to OWCP and on appeal. 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 January 31, 2022 appellant, then a 30-year-old city carrier, filed a traumatic injury claim (Form CA-1) alleging that on January 10, 2022 she injured her right hand, middle, and index fingers when she slammed her hand in a van door while in the performance of duty. She stopped work on January 10, 2022, and returned to work on February 1, 2022.

OWCP received a January 10, 2022 report by Chanise Isaac, a physician assistant, noting an injury that day. Ms. Isaac diagnosed contusion of right index finger without damage to nail, contusion of right middle finger without damage to nail, finger laceration, and fracture of middle phalanx of index finger. Appellant received a tetanus-diphtheria-pertussis (TDAP) vaccine on January 11, 2022. Ms. Isaac reiterated her previous diagnoses in chart notes dated January 12 and 26, 2022. Appellant also submitted reports dated through January 28, 2022 by Victor Kumpel, a physician assistant, and Anthony D. Fontaine, a physical therapist, reiterating Ms. Isaac's diagnoses.

In a February 7, 2022 development letter, OWCP informed appellant of the deficiencies of her claim. It advised her of the type of additional factual and medical evidence needed and provided a questionnaire for her completion. OWCP afforded appellant 30 days to respond.

Thereafter, OWCP received reports by Ms. Isaac, Mr. Fontaine, and Emily Davies, a physical therapist, dated from January 10 through February 25, 2022, reiterating the initial diagnoses.

By decision dated March 17, 2022, OWCP accepted that appellant had established that the January 10, 2022 employment incident occurred, as alleged. However, it denied her claim finding that the medical evidence of record was insufficient to establish a medical diagnosis in connection with the accepted January 10, 2022 employment incident. OWCP concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

OWCP received additional evidence including copies of form reports by Dr. B. Qureshi.<sup>3</sup>

On March 27, 2022 appellant requested reconsideration.

Thereafter, OWCP received a March 4, 2022 duty status report (Form CA-17) signed by Dr. Qureshi, noting a history of the January 10, 2022 employment incident as provided by appellant. Dr. Qureshi diagnosed a fracture and superficial laceration of the right middle finger.

In March 21 and April 18, 2022 reports, Ms. Isaacs reiterated previous diagnoses and noted work restrictions.

In an April 18, 2022 Form CA-17 signed by Dr. Carole Levy, Board-certified in emergency medicine, the practitioners noted a history of the January 10, 2022 employment incident as

---

<sup>3</sup> Dr. Qureshi's specialty could not be verified.

provided by appellant. On examination, she noted tenderness, swelling, and limited motion of an unspecified finger of the right hand. Dr. Levy diagnosed a fracture of the right index finger.

By decision issued June 24, 2022, OWCP denied modification.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA<sup>4</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,<sup>5</sup> 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 employment injury.<sup>6</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>7</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.<sup>8</sup> Second, the employee must submit sufficient evidence to establish that the employment incident caused a personal injury.<sup>9</sup>

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.<sup>10</sup>

---

<sup>4</sup> *Supra* note 1; *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).

<sup>5</sup> *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).

<sup>6</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>7</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>8</sup> *D.S.*, Docket No. 17-1422 (issued November 9, 2017); *Elaine Pendleton*, 40 ECAB 1143 (1989).

<sup>9</sup> *B.M.*, Docket No. 17-0796 (issued July 5, 2018); *John J. Carlone*, 41 ECAB 354 (1989).

<sup>10</sup> *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).

## ANALYSIS

The Board finds that appellant has met her burden of proof to establish a contusion of right index finger, contusion of right middle finger, and a finger laceration causally related to the accepted January 10, 2022 employment incident.

OWCP found that the January 10, 2022 employment incident, in which appellant slammed her right hand in a vehicle door, occurred in the performance of duty, as alleged. In a number of reports from January 10, 2022 onward, Ms. Isaac diagnosed contusions of the right index and middle fingers, and a finger laceration. 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>11</sup>

As the evidence of record establishes that appellant's accepted employment incident resulted in visible injuries, the Board finds that she has met her burden of proof to establish a contusion of right index finger, contusion of right middle finger, and a finger laceration as causally related to the accepted January 10, 2022 employment incident.<sup>12</sup> The case will, therefore, be remanded to OWCP for payment of medical expenses for appellant's diagnosed conditions and any attendant disability.

The Board further finds, however, that while Dr. Levy diagnosed a fracture of the right index finger in an April 18, 2022 Form CA-17, the medical evidence of record is insufficient to establish that appellant's fracture was causally related to the accepted January 10, 2022 employment injury.

In support of her claim, appellant submitted reports from Ms. Isaacs, Mr. Kumpel, Mr. Fontaine, and Ms. Davies. However, certain healthcare providers such as physician assistants, nurses, nurse practitioners, physical therapists, and social workers are not considered "physician[s]" as defined under FECA.<sup>13</sup> Consequently, their medical findings and/or opinions

---

<sup>11</sup> See Federal (FECA) Procedure Manual, Part 2 -- Claims, *Initial Development of Claims*, Chapter 2.800.6(a) (June 2011); Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3(c) (January 2013). See also *T.G.*, Docket No. 21-0977 (issued November 10, 2022); *R.H.*, Docket No. 20-1684 (issued August 27, 2021); *A.J.*, Docket No. 20-0484 (issued September 2, 2020).

<sup>12</sup> *Id.*; *J.M.*, Docket No. 21-0077 (issued June 27, 2022); *P.B.*, Docket No. 20-1643 (issued March 30, 2022); *S.K.*, Docket No. 18-1411 (issued July 22, 2020).

<sup>13</sup> Section 8101(2) of FECA provides that 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 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 *K.D.*, Docket No. 22-0756 (issued November 29, 2022) (a physical therapist is not considered a physician under FECA); *R.H.*, Docket No. 20-1684 (issued August 27, 2021) (a physician assistant is not considered a physician as defined under FECA).

will not suffice for purposes of establishing entitlement to FECA benefits. Therefore, these reports are insufficient to establish a diagnosis of fracture of the right index finger.<sup>14</sup>

Additionally, appellant submitted form reports dated February 5 and 25, and March 4 and 11, 2022 signed by Dr. Qureshi. However, Dr. Qureshi did not provide 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 is of no probative value on the issue of causal relationship.<sup>15</sup> These reports, therefore, are insufficient to meet appellant's burden of proof.

OWCP also received an April 18, 2022 Form CA-17, signed by Dr. Levy, a physician Board-certified in emergency medicine. Dr. Levy diagnosed a fracture of the right index finger. However, she did not provide an opinion on causal relationship. As noted above, 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>16</sup> Thus, this report is insufficient to meet appellant's burden of proof.

As the medical evidence of record is insufficient to establish that appellant's fracture of the right index finger is causally related to the accepted January 10, 2022 employment injury, the Board finds that appellant has not met her burden of proof.

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 her burden of proof to establish a contusion of right index finger, contusion of right middle finger, and a finger laceration causally related to the accepted January 10, 2022 employment incident. The Board further finds, however, that she has not met her burden of proof to establish a fracture of the right index finger causally related to the accepted January 10, 2022 employment injury.

---

<sup>14</sup> *K.D., id.; R.H., id.*

<sup>15</sup> *See L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

<sup>16</sup> *Id.*

**ORDER**

**IT IS HEREBY ORDERED THAT** the June 24, 2022 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: July 10, 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