United States Department of Labor
Employees' Compensation Appeals Board

L.M., Appellant	)	
and	)	**Docket No. 23-0266**
	)	**Issued: July 7, 2023**
U.S. POSTAL SERVICE, POST OFFICE, NASHVILLE, 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
PATRICIA H. FITZGERALD, Deputy Chief Judge
JANICE B. ASKIN, Judge

JURISDICTION

On December 16, 2022 appellant filed a timely appeal from a December 1, 2022 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.

ISSUE

The issue is whether appellant has met her burden of proof to establish a diagnosed medical condition in connection with the accepted June 13, 2022 employment incident.

FACTUAL HISTORY

On June 16, 2022 appellant, then a 56-year-old city delivery specialist, filed a traumatic injury claim (Form CA-1) alleging that on June 13, 2022 she suffered from heat exhaustion while in the performance of duty. On the reverse side of the claim form, appellant's supervisor

[1] 5 U.S.C. § 8101 *et seq*.

indicated that appellant was not injured in the performance of duty, explaining that appellant noted that she was properly hydrating and believed that the issues were more related to medications and preexisting health conditions. The form indicated that appellant stopped work on June 13, 2022.

On June 13, 2022 appellant was treated in an emergency department by Dr. Clint A. Christensen, a Board-certified emergency medicine physician. She related chest pain, back pain, and cramps. The after-visit summary noted a diagnosis of acute chest pain.

By development letter dated June 30, 2022, OWCP informed appellant of the deficiencies of her claim. It advised her of the type of factual and medical evidence needed and provided a questionnaire for her completion. In a separate development letter of even date, OWCP requested that the employing establishment provide additional information regarding appellant's claim, including comments from a knowledgeable supervisor.

OWCP also received an unsigned emergency department provider note dated June 13, 2022, which related that appellant had been working outside in the heat.

In a completed questionnaire dated July 12, 2022, appellant replied that she was working outside delivering mail and parcels, and after a few hours she felt nauseous and lightheaded and later her skin became flushed and clammy. She also related cold chills, muscle cramps, back and chest pain, and disorientation. Appellant admitted herself to the emergency room. She further noted that she was working outside of her regular work hours because she still had over an hour left on her route and her truck broke down.

By decision dated August 5, 2022, OWCP found that the June 13, 2022 incident had occurred as alleged, but denied appellant's traumatic injury claim, finding that the evidence of record was insufficient to establish a diagnosed medical condition in connection with the accepted employment incident. It concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

On September 2, 2022 appellant requested reconsideration.

In support of the reconsideration request, OWCP received an undated work excuse letter signed by a registered nurse. The letter reiterated that appellant was seen in an emergency department on June 13, 2022 for heat exhaustion. She was allowed to return to work on June 15, 2022.

By decision dated December 1, 2022, OWCP denied modification.

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, that the claim was timely filed within the applicable time

[2] *Id.*

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.[3] 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.[4]

To determine whether an employee sustained a traumatic injury in the performance of duty, it must first be determined whether fact of injury has been established. There are two components involved in establishing fact of injury. The first component is whether the employee actually experienced the employment incident that allegedly occurred. The second component is whether the employment incident caused a personal injury.[5]

Causal relationship is a medical issue, and the evidence required to establish causal relationship is rationalized medical opinion evidence.[6] The opinion of the physician must be based on a complete factual and medical background of the claimant, 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 factors identified by the claimant.[7]

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish a diagnosed medical condition in connection with the accepted June 13, 2022 employment incident.

An after-visit summary dated June 13, 2022, noted that appellant was treated in an emergency department by Dr. Clint A. Christensen, a Board-certified emergency medicine physician. The after-visit summary noted a diagnosis of acute chest pain. Under FECA, the assessment of pain is not considered a diagnosis, as pain merely refers to a symptom of an underlying condition.[8] This report is, therefore, of no probative value and is insufficient to establish appellant's claim.

Appellant also submitted an unsigned emergency department provider note dated June 13, 2022, which related that she had been working outside in the heat. However, the Board

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

[4] *B.H.*, Docket No. 20-0777 (issued October 21, 2020); *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).

[5] *M.H.*, Docket No. 18-1737 (issued March 13, 2019); *John J. Carlone*, 41 ECAB 354 (1989); *see* 5 U.S.C. § 8101(5) (injury defined); 20 C.F.R. §§ 10.5(ee), 10.5(q) (traumatic injury and occupational disease defined, respectively).

[6] *A.M.*, Docket No. 18-1748 (issued April 24, 2019); *T.H.*, 59 ECAB 388 (2008).

[7] *M.V.*, Docket No. 18-0884 (issued December 28, 2018); *I.J.*, 59 ECAB 408 (2008).

[8] *D.A.*, Docket No. 22-0762 (issued September 30, 2022); *M.V.*, Docket No. 18-0884 (issued December 28, 2018). The Board has consistently held that pain is a symptom, not a compensable medical diagnosis. *See P.S.*, Docket No. 12-1601 (issued January 2, 2013); *C.F.*, Docket No. 08-1102 (issued October 10, 2008).

has held that medical evidence containing an illegible signature, or which is unsigned, has no probative value, as it is not established that the author is a physician.[9]

OWCP also received an undated work excuse indicating that appellant was seen in an emergency department on June 13, 2022 for heat exhaustion. It was signed by a registered nurse. Certain healthcare providers such as physician assistants, nurse practitioners, physical therapists, and social workers are not considered "physician[s]" as defined under FECA and their reports do not constitute competent medical evidence.[10] This report is thus also of no probative value and insufficient to establish appellant's claim.

As the evidence of record is insufficient to establish a diagnosed medical condition in connection with the accepted June 13, 2022 employment incident, 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 not met her burden of proof to establish a diagnosed medical condition in connection with the accepted June 13, 2022 employment incident.

[9] *G.D.*, Docket No. 22-0555 (issued November 18, 2022); *see T.C.*, Docket No. 21-1123 (issued April 5, 2022); *Z.G.*, 19-0967 (issued October 21, 2019); *see R.M.*, 59 ECAB 690 (2008); *Merton J. Sills*, 39 ECAB 572, 575 (1988); *Bradford L. Sullivan*, 33 ECAB 1568 (1982).

[10] 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).

ORDER

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

Issued: July 7, 2023
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Deputy Chief Judge
Employees' Compensation Appeals Board

Janice B. Askin, Judge
Employees' Compensation Appeals Board