United States Department of Labor
Employees' Compensation Appeals Board

T.C., Appellant	)	
and	)	**Docket No. 23-0345**
	)	**Issued: July 24, 2023**
U.S. POSTAL SERVICE, POST OFFICE, Clarksville, 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
JAMES D. McGINLEY, Alternate Judge

JURISDICTION

On January 11, 2023 appellant filed a timely appeal from a January 9, 2023 merit decision of the Office of Workers' Compensation Programs (OWCP).[1] Pursuant to the Federal Employees' Compensation Act[2] (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.[3]

[1] Appellant submitted a timely request for oral argument before the Board. 20 C.F.R. § 501.5(b). Pursuant to the Board's *Rules of Procedure*, oral argument may be held in the discretion of the Board. 20 C.F.R. § 501.5(a). In support of her oral argument request, appellant asserted that oral argument should be granted to discuss her belief that she had submitted sufficient evidence to establish her claim. The Board, in exercising its discretion, denies appellant's request for oral argument because appellant's argument on appeal can be adequately addressed in a decision based on a review of the case record. Oral argument in this appeal would not serve a useful purpose. Therefore, the oral argument request is denied and this decision is based on the case record as submitted to the Board.

[2] 5 U.S.C. § 8101 *et seq*.

[3] The Board notes that following the January 9, 2023 decision, appellant submitted additional evidence to OWCP. 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*.

ISSUE

The issue is whether appellant has met her burden of proof to establish a diagnosed medical condition in connection with the accepted November 10, 2022 employment incident.

FACTUAL HISTORY

On November 16, 2022 appellant, then a 33-year-old mail carrier, filed a traumatic injury claim (Form CA-1) alleging that on November 10, 2022[4] she sustained injury by twisting her left ankle when walking her mail delivery route while in the performance of duty. She stopped work on the same date.

In a duty status report (Form CA-17) dated November 10, 2022, a physician assistant with an illegible signature listed a diagnosis "due to injury" of "[left] ankle injury."[5] The physician assistant checked a box marked "No" indicating that appellant could not perform her regular work, but also checked a box marked "Yes" indicating that she could return to work with restrictions.

Appellant also submitted an authorization for examination and/or treatment (Form CA-16), which had been signed by her supervisor on November 15, 2022. Part B of the Form CA-16, the attending physician's report, was signed by a physician assistant with an illegible signature, who indicated that appellant was able to resume light-duty work on November 10, 2022.[6]

Appellant submitted a series of triage reports containing entries for the period November 27 through 30, 2022. The reports contained the names of several individuals, including Patricia Stillwell and Angela Linn who were identified as nurses. However, the reports were not signed.

In a December 5, 2022 development letter, OWCP notified 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. OWCP afforded appellant 30 days to respond.

Appellant submitted a December 21, 2022 form report from a healthcare provider with an illegible signature. The provider indicated that appellant had been treated on that date for left ankle sprain and was able to perform modified-duty work with specified restrictions.

By decision dated January 9, 2023, OWCP accepted that the November 10, 2022 employment incident occurred, as alleged. However, it denied her claim, finding that she had not submitted a medical report, which diagnosed a medical condition in connection with the accepted November 10, 2022 employment incident.

[4] Appellant initially listed the claimed date of injury as November 11, 2022, but it was later determined that the actual claimed date of injury was November 10, 2022.

[5] Appellant's supervisor provided a November 10, 2022 date of injury on the Form CA-17.

[6] The physician assistant did not date the report.

LEGAL PRECEDENT

An employee seeking benefits under FECA 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 and that the claim was filed within the applicable time limitation period 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.[7] 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.[8]

To determine if an employee has sustained a traumatic injury in the performance of duty, OWCP begins with an analysis of whether fact of injury has been established. Fact of injury consists of two components that must be considered in conjunction with one another. The first component is whether the employee actually experienced the employment incident that allegedly occurred at the time and place, and in the manner alleged.[9] The second component is whether the employment incident caused a personal injury.[10]

Causal relationship is a medical issue, and the medical evidence required to establish causal relationship is rationalized medical opinion evidence.[11] 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.[12]

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish a diagnosed medical condition in connection with the accepted November 10, 2022 employment incident.

Appellant submitted a Form CA-17, dated November 10, 2022, in which a physician assistant with an illegible signature listed a diagnosis "due to injury" of "[left] ankle injury." The physician assistant checked a box marked "No" indicating that appellant could not perform her regular work, but also checked a box marked "Yes" indicating that she could return to work with restrictions. Appellant submitted a Form CA-16, which had been signed by her supervisor on November 15, 2022. A portion of the form was also signed by a physician assistant with an

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

[8] *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).

[9] *B.P.*, Docket No. 16-1549 (issued January 18, 2017); *Elaine Pendleton*, 40 ECAB 1143 (1989).

[10] *M.H.*, Docket No. 18-1737 (issued March 13, 2019); *John J. Carlone*, 41 ECAB 354 (1989).

[11] *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).

[12] *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).

illegible signature who indicated that appellant was able to resume light-duty work on November 10, 2022. However, the Board has held that certain healthcare providers such as physician assistants, nurse practitioners, physical therapists, and social workers are not considered physician[s] as defined under FECA.[13] Consequently, their medical findings and/or opinions will not suffice for purposes of establishing entitlement to FECA benefits.[14]

Appellant submitted a series of unsigned triage reports containing entries for the period November 27 through 30, 2022. She also submitted a December 21, 2022 form report from a healthcare provider with an illegible signature. However, the Board has held that unsigned reports and reports that bear illegible signatures cannot be considered probative medical evidence because they lack proper identification.[15]

As the medical evidence of record is insufficient to establish a medical condition diagnosed in connection with the accepted November 10, 2022 employment incident, the Board finds that appellant has not met her burden of proof to establish a work-related injury on that date.

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 November 10, 2022 employment incident.

[13] Section 8102(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 J.D.*, Docket No. 21-0164 (issued June 15, 2021) (nurse practitioners are not physicians as defined under FECA); *A.M.*, Docket No. 20-1575 (issued May 24, 2021) (physical therapists are not physicians as defined by FECA).

[14] *Id*.

[15] *B.S.*, Docket No. 22-0918 (issued August 29, 2022); *Merton J. Sills*, 39 ECAB 572, 575 (1988).

ORDER

IT IS HEREBY ORDERED THAT the January 9, 2023 decision of the Office of Workers' Compensation Programs is affirmed.[16]

Issued: July 24, 2023
Washington, DC

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

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

James D. McGinley, Alternate Judge
Employees' Compensation Appeals Board

[16] The case record contains a Form CA-16 signed by appellant's supervisor on November 15, 2022. A properly completed Form CA-16 form 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. The period for which treatment is authorized by a Form CA-16 is limited to 60 days from the date of issuance, unless terminated earlier by OWCP. 20 C.F.R. § 10.300(c); *P.R.*, Docket No. 18-0737 (issued November 2, 2018); *N.M.*, Docket No. 17-1655 (issued January 24, 2018); *Tracy P. Spillane*, 54 ECAB 608 (2003).