



## **FACTUAL HISTORY**

On March 16, 2022 appellant, then a 53-year-old city carrier, filed a traumatic injury claim (Form CA-1) alleging that on February 20, 2022 he injured his lower right back when he lifted a box weighing approximately 45 to 50 pounds into his truck while in the performance of duty. The employing establishment acknowledged that the alleged injury occurred in the performance of duty.

Progress notes dated March 3, 2022 from Carroll Waddel, a nurse practitioner, indicated that appellant had received injections for strain of the muscle and tendon of the back wall of the thorax. Notes dated March 11, 2022 from Matthew Kern, a nurse practitioner noted appellant's diagnosis of lumbar ligament sprain and indicated that appellant had been referred to physical therapy. On May 14, 2022 nurse practitioner Susan Eiteljorge continued to diagnose lumbar ligament sprain. Nurse practitioner Jahziel Fabie treated appellant on June 8, 2022 and diagnosed complicated sprain of the sacroiliac joint. On July 6 and 27, and August 31, 2022 nurse practitioner Lillian Alvarez again diagnosed complicated sprain of the sacroiliac joint.

OWCP also received a June 8, 2022 Form CA-17 duty status report bearing an illegible signature. This form noted appellant's date of injury as February 20, 2022 and diagnoses of lumbar sprain and left S1 joint sprain. It indicated that appellant could return to modified work.

A July 21, 2022 magnetic resonance imaging (MRI) scan read by Dr. Arpit Gandhi, a diagnostic radiologist, demonstrated mild degenerative changes in the lumbar spine, and a small left posterior annular fissure at L4-L5 as a potential discogenic source of pain.

OWCP received form reports dated March 3 to October 29, 2022, signed by nurse practitioners.

OWCP also received physical therapy notes dated March 11 through September 15, 2022.

In an October 5, 2022 development letter, OWCP informed appellant of the deficiencies of his claim. It advised him of the type of medical evidence needed to establish his claim and afforded him 30 days to submit the necessary evidence.

In response, OWCP received a copy of the previously-submitted July 21, 2022 MRI scan.

OWCP continued to receive progress reports from nurse practitioners dated September 13 through October 29, 2022. In the reports dated September 13 and 22, 2022, appellant's diagnoses were listed as moderate sprain of the lumbar spine ligaments, and acute sprain of the sacroiliac joint. In the October 29, 2022 report, his diagnoses were listed as uncomplicated acute sprain of the lumbar spine ligaments, and acute sprain of the sacroiliac joint.

By decision dated November 23, 2022, OWCP denied appellant's claim. It accepted that the February 20, 2022 employment incident occurred as alleged; however, it denied the claim, finding that the evidence of record was insufficient to establish causal relationship between his diagnosed conditions and the accepted February 20, 2022 employment incident.

## LEGAL PRECEDENT

An employee seeking benefits under FECA<sup>3</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, that the claim was timely filed within the applicable time limitation of FECA,<sup>4</sup> 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>5</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>6</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. The first component is whether the employee 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.<sup>7</sup>

The medical evidence required to establish causal relationship between a claimed specific condition and an employment incident is rationalized medical opinion evidence.<sup>8</sup> 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 incident identified by the employee.<sup>9</sup>

## ANALYSIS

The Board finds that appellant has not met his burden of proof to establish a medical condition causally related to the accepted February 20, 2022 employment incident.

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<sup>3</sup> 5 U.S.C. § 8101 *et seq.*

<sup>4</sup> *See L.H.*, Docket No. 21-1298 (issued April 11, 2022); *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).

<sup>5</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>6</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>7</sup> *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).

<sup>8</sup> *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).

<sup>9</sup> *P.C.*, Docket No. 20-0855 (issued November 23, 2020); *Y.S.*, Docket No. 18-0366 (issued January 22, 2020); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

Appellant submitted a series of nurse practitioner and physical therapy notes. Certain healthcare providers such as physician assistants, nurse practitioners, and physical therapists are not considered physicians as defined under FECA.<sup>10</sup> Consequently, these notes will not suffice for purposes of establishing entitlement to FECA benefits.

OWCP received a June 8, 2022 Form CA-17 duty status report bearing an illegible signature. The Board, however, has held that reports that are unsigned or bear an illegible signature cannot be considered probative medical evidence as the author cannot be identified as a physician.<sup>11</sup>

OWCP also received a July 21, 2022 MRI scan. The Board, however, has held that diagnostic reports, standing alone, lack probative value on the issue of causal relationship as they do not provide an opinion as to whether the accepted employment incident caused a diagnosed condition.<sup>12</sup> Consequently, the MRI scan submitted by appellant is insufficient to establish his claim.

As the medical evidence of record is insufficient to establish that appellant's diagnosed conditions of sprain of the lumbar spine and sprain of sacroiliac joint are causally related to the accepted employment incident, the Board finds that he has not met his 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 his burden of proof to establish a medical condition causally related to the accepted February 20, 2022 employment incident.

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<sup>10</sup> 5 U.S.C. § 8101(2) 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, 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); *M.F.*, Docket No. 19-1573 (issued March 16, 2020); *N.B.*, Docket No. 19-0221 (issued July 15, 2019); *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).

<sup>11</sup> *C.S.*, Docket No. 20-1354 (issued January 29, 2021); *D.T.*, Docket No. 20-0685 (issued October 8, 2020); *Merton J. Sills*, 39 ECAB 572, 575 (1988).

<sup>12</sup> *W.L.*, Docket No. 20-1589 (issued August 26, 2021); *A.P.*, Docket No. 18-1690 (issued December 12, 2019).

**ORDER**

**IT IS HEREBY ORDERED THAT** the November 23, 2022 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: June 21, 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