

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

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R.N., Appellant )

and )

U.S. POSTAL SERVICE, POST OFFICE, )  
Phoenix, AZ, Employer )

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Docket No. 21-0884  
Issued: March 30, 2023

*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 May 21, 2021 appellant filed a timely appeal from an April 21, 2021 merit decision of the Office of Workers' Compensation Programs (OWCP).<sup>1</sup> Pursuant to the Federal Employees' Compensation Act<sup>2</sup> (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 his burden of proof to establish a left upper extremity condition causally related to the accepted January 28, 2021 employment incident.

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<sup>1</sup> The Board notes that, following the April 21, 2021 decision, OWCP received additional evidence. 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.*

<sup>2</sup> 5 U.S.C. § 8101 *et seq.*

## **FACTUAL HISTORY**

On February 4, 2021 appellant, then a 49-year-old mail processing clerk, filed a traumatic injury claim (Form CA-1) alleging that on January 28, 2021 he injured his left forearm when he felt a sharp pain loading bundles of flats into a carrier hot case while in the performance of duty. He did not stop work.

In a January 28, 2021 report, Dr. Zaid Hanoudi, Board-certified in family medicine, noted that appellant presented with complaints of injuring his left forearm at work when he was putting away flat magazine bundles from a west pack to a carrier hot case. He diagnosed a left forearm sprain and opined that the injury was a result of lifting while at work. Dr. Hanoudi prescribed medication and recommended physical therapy. In a medical note of even date, he diagnosed a left forearm sprain and provided work restrictions.

In a February 1, 2021 note and reports dated February 1 and 8, 2021, Darren Shobe, a physician assistant, evaluated appellant for appellant's January 28, 2021 employment injury and diagnosed a left forearm sprain and a strain of the left shoulder. He recommended physical therapy and provided work restrictions.

Appellant also submitted physical therapy reports dated January 28 to February 16, 2021.

In a February 16, 2021 medical report, Bhavi Shah, a physician assistant, evaluated appellant regarding his January 28, 2021 employment injury and diagnosed a strain of the left shoulder and a left forearm sprain.

In a March 11, 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 afforded him 30 days to respond.

Thereafter, OWCP received a copy of a February 16, 2021 physical therapy report.

By decision dated April 21, 2021, OWCP denied appellant's traumatic injury claim, finding that the evidence of record was insufficient to establish that his diagnosed conditions were causally related to the accepted January 28, 2021 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 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,<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

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<sup>3</sup> *Id.*

<sup>4</sup> *J.P.*, Docket No. 19-0129 (issued April 26, 2019); *S.B.*, Docket No. 17-1779 (issued February 7, 2018); *Joe D. Cameron*, 41 ECAB 153 (1989).

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 must first be determined whether fact of injury has been established.<sup>7</sup> First, the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time, 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>

To establish causal relationship between the condition, as well as any attendant disability claimed and the employment event or incident, the employee must submit rationalized medical opinion evidence sufficient to establish such causal relationship.<sup>10</sup> The opinion of the physician must be based on a complete factual and medical background, 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.<sup>11</sup>

### ANALYSIS

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

Dr. Hanoudi, in his January 28, 2021 report, observed that appellant injured his left forearm at work when he was putting away flat magazine bundles and opined that appellant's injury was a result of lifting. He diagnosed a left forearm sprain. Although Dr. Hanoudi supported causal relationship, he failed to provide medical rationale explaining the basis of his conclusory opinion. Without explaining, physiologically, how lifting flat magazine bundles caused or aggravated the diagnosed condition, his January 28, 2021 medical report is of limited probative value and insufficient to establish appellant's claim.<sup>12</sup>

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

<sup>6</sup> *R.R.*, Docket No. 19-0048 (issued April 25, 2019); *L.M.*, Docket No. 13-1402 (issued February 7, 2014); *Delores C. Elliott*, 41 ECAB 992 (1990).

<sup>7</sup> *R.B.*, Docket No. 17-2014 (issued February 14, 2019); *B.F.*, Docket No. 09-0060 (issued March 17, 2009); *Bonnie A. Contreras*, 57 ECAB 364 (2006).

<sup>8</sup> *S.F.*, Docket No. 18-0296 (issued July 26, 2018); *D.B.*, 58 ECAB 464 (2007); *David Apgar*, 57 ECAB 137 (2005).

<sup>9</sup> *A.D.*, Docket No. 17-1855 (issued February 26, 2018); *C.B.*, Docket No. 08-1583 (issued December 9, 2008); *D.G.*, 59 ECAB 734 (2008); *Bonnie A. Contreras*, *supra* note 7.

<sup>10</sup> *See F.C.*, Docket No. 19-0594 (issued August 13, 2019); *K.V.*, Docket No. 18-0723 (issued November 9, 2018).

<sup>11</sup> *See F.C., id.; I.J.*, 59 ECAB 408 (2008).

<sup>12</sup> *S.K.*, Docket No. 20-0102 (issued June 12, 2020); *M.M.*, Docket No. 20-0019 (issued May 6, 2020).

In his January 28, 2021 note, Dr. Hanoudi diagnosed a left forearm sprain and advised that appellant could return to work with restrictions. However, he did not offer an opinion as to whether appellant's left forearm sprain was causally related to the accepted January 28, 2021 employment incident. 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>13</sup> Accordingly, Dr. Hanoudi's January 28, 2021 note is also insufficient to establish appellant's claim.

The remaining medical evidence consists of medical reports, medical notes, and physical therapy reports signed by physician assistants and physical therapists. Certain healthcare providers such as physician assistants, nurse practitioners, physical therapists, and social workers are not considered "physician[s]" as defined under FECA.<sup>14</sup> Consequently, their medical findings and/or opinions will not suffice for purposes of establishing entitlement to FECA benefits.<sup>15</sup>

As the evidence of record is insufficient to establish causal relationship between appellant's diagnosed medical conditions and the accepted January 28, 2021 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 left upper extremity condition causally related to the accepted January 28, 2021 employment incident.

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<sup>13</sup> *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

<sup>14</sup> Section 8101(2) provides that under FECA the term physician includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, and osteopathic practitioners within the scope of their practice as defined by the applicable 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 *R.L.*, Docket No. 19-0440 (issued July 8, 2019) (nurse practitioners and physical therapists are not considered physicians under FECA).

<sup>15</sup> *D.P.*, Docket No. 19-1295 (issued March 16, 2020); *G.S.*, Docket No. 18-1696 (issued March 26, 2019); see *M.M.*, Docket No. 17-1641 (issued February 15, 2018); *K.J.*, Docket No. 16-1805 (issued February 23, 2018); *David P. Sawchuk, id.*

**ORDER**

**IT IS HEREBY ORDERED THAT** the April 21, 2021 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: March 30, 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