United States Department of Labor
Employees' Compensation Appeals Board

E.P., Appellant	)	
and	)	**Docket No. 22-0606**
	)	**Issued: March 23, 2023**
U.S. POSTAL SERVICE, COLUMBUS PROCESSING & DISTRIBUTION CENTER, Columbus, OH, Employer	)	

Appearances:
Alan J. Shapiro, Esq., for the appellant[1]
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
JANICE B. ASKIN, Judge
VALERIE D. EVANS-HARRELL, Alternate Judge
JAMES D. McGINLEY, Alternate Judge

JURISDICTION

On March 16, 2022 appellant, through counsel, filed a timely appeal from a December 13, 2021 merit decision of the Office of Workers' Compensation Programs (OWCP). 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] In all cases in which a representative has been authorized in a matter before the Board, no claim for a fee for legal or other service performed on appeal before the Board is valid unless approved by the Board. 20 C.F.R. § 501.9(e). No contract for a stipulated fee or on a contingent fee basis will be approved by the Board. *Id.* An attorney or representative's collection of a fee without the Board's approval may constitute a misdemeanor, subject to fine or imprisonment for up to one year or both. *Id.*; *see also* 18 U.S.C. § 292. Demands for payment of fees to a representative, prior to approval by the Board, may be reported to appropriate authorities for investigation.

[2] 5 U.S.C. § 8101 *et seq.*

[3] The Board notes that, following the issuance of the December 13, 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.*

ISSUE

The issue is whether appellant has met her burden of proof to establish a medical condition causally related to the accepted October 20, 2018 employment incident.

FACTUAL HISTORY

On October 30, 2018 appellant, then a 71-year-old mail handler, filed a traumatic injury claim (Form CA-1) alleging that on October 20, 2018 she injured her left shoulder, hip, and knee when she lifted heavy trays, pulled skids, all-purpose containers (APC), and bulk mail center containers (BMC) while in the performance of duty. She noted that her left shoulder popped while lifting the heavy trays. Appellant stopped work on October 21, 2018.

OWCP subsequently received medical evidence. An October 21, 2018 letter cosigned by Gina A. Grosscup, a certified nurse practitioner, and Teresa Jordan, a registered nurse, indicated that appellant may return to work on October 24, 2018. In an after-visit summary of even date, Ms. Grosscup and Ms. Jordan noted a diagnosis of joint inflammation.

In an October 29, 2018 return-to-work/school note, Dr. Pamela Dull, a Board-certified family practitioner, provided appellant's work restrictions.

In an attending physician's report (Form CA-20) and duty status report (Form CA-17) dated November 21, 2018 and January 2, 2019, respectively, Dr. Robert A. Martin, an attending Board-certified orthopedic surgeon, noted a history that on October 20, 2018 appellant fell and injured her left shoulder and left hip. He diagnosed left shoulder bursitis and left hip osteoarthritis. In the Form CA-20 report, Dr. Martin checked a box marked "Yes" indicating that the diagnosed conditions were caused or aggravated by an employment activity. He also noted that appellant was totally disabled from October 21, 2018 through March 21, 2019 and that initially, she could return to work on January 3, 2019 and later return to work on March 21, 2019. In the Form CA-17 report, Dr. Martin indicated that the diagnosed conditions were due to injury. In a January 2, 2019 narrative report, he noted that appellant presented for a follow-up evaluation of her left shoulder. Dr. Martin performed an injection which provided temporary relief, but appellant continued to have a sense of mechanical catching on the shoulder. He reported that a previous magnetic resonance imaging (MRI) scan showed a possible loose body in the subscapularis recess and no obvious rotator cuff pathology. Dr. Martin discussed possible left shoulder surgery.

Dr. David J. Magee, a Board-certified diagnostic radiologist, in x-ray reports dated October 21, 2018, provided impressions of no acute osseous abnormality of the left knee, left shoulder, and left hip. He also provided an impression of mild osteoarthritic changes in the left hip.

On January 22, 2019 OWCP received appellant's request for authorization for left shoulder arthroscopic surgery.

In a development letter dated January 28, 2019, OWCP informed appellant of the deficiencies of her claim and advised her of the factual and medical evidence necessary to establish her claim and provided a questionnaire for her completion. It allotted her 30 days to submit the requested evidence.

OWCP subsequently received a November 5, 2018 report from Dr. Martin, who discussed findings on physical examination and reviewed diagnostic test results. Dr. Martin provided assessments of left shoulder rotator cuff tear and left hip possible occult fracture. In an undated Form CA-20 report, he reiterated appellant's history of injury on October 20, 2018. Dr. Martin also reiterated his prior diagnosis of left hip arthritis and, also diagnosed left shoulder rotator cuff tendinitis and possible loose body. He checked a box marked "Yes" indicating that the diagnosed conditions were caused or aggravated by an employment activity. Dr. Martin explained that appellant fell on her left shoulder, and had difficulty with overhead and reaching activities. He noted that since her fall, she had left shoulder pain. Dr. Martin also noted that appellant was scheduled to undergo left shoulder arthroscopic debridement with rotator cuff repair on February 21, 2019.

By decision dated March 8, 2019, OWCP accepted that the October 20, 2018 employment incident occurred, as alleged, but denied appellant's claim, finding that the medical evidence of record did not contain a rationalized medical opinion, based on an accurate factual background, relating her diagnosed conditions to the accepted employment incident.

OWCP subsequently received hospital emergency room records dated October 21, 2018, which indicated that appellant was treated for left hip pain and osteoarthritis, and left knee and left shoulder pain.

In a March 21, 2019 report, Dr. Charles Manfresca, an attending osteopathic physician specializing in family practice, noted a history of injury that on October 20, 2018 appellant tried pushing a fully loaded APC, but instead she had to pull it. As appellant was pulling the cart with both hands and walking backwards a faulty wheel that jammed or became stuck caused the APC to abruptly stop. As a result, her feet slipped out from under her and to prevent herself from falling backwards onto the floor she instinctively reached out and grabbed the cage on the cart. Although appellant did not fall, this maneuver caused her to twist and jerk her shoulder and trunk, resulting in sudden onset of pain in her left shoulder and right hip down to her right knee. She reported to the infirmary for treatment and returned to finish her work duties on that day. Dr. Manfresca reviewed medical records and discussed examination findings. He diagnosed left rotator cuff tear, strain of the muscle fascia tendon of the left hip, aggravation of left hip osteoarthritis, and strain of the lumbar muscle fascia tendon. Dr. Manfresca opined that appellant suffered an acute rotator cuff injury and left hip strain as a result of the October 20, 2018 employment incident. He noted that she needed to use her body weight to help pull a heavy cart and when the wheel on the cart locked the load also locked. Dr. Manfresca further noted that while appellant's body was leaning backwards and her weight and momentum moved in that direction, the force translated through her lower extremities and when her shoes lost grip with the floor her feet and lower extremities slipped out from under her in the opposite direction. Appellant's instinctual reaction of grasping onto the cart to prevent falling to the floor caused all the force to be transmitted through her shoulder joint. Because she also twisted/torqued her body the force was transmitted unequally through the left side of her body which overstretched her left rotator cuff and caused it to tear. It also caused torquing forces through appellant's left hip which caused muscle strain. Dr. Manfresca noted that he could not comment on the state of her arthritis because he did not perform the initial evaluation. He related, however, that appellant's clinical presentation and examination were consistent with inflamed osteoarthritis of the left hip. As appellant had a previous injury to the area with a nearly complete resolution of symptoms, she was currently experiencing an exacerbation of her osteoarthritis either as a direct result of the employment incident or secondarily

related to the incident. Dr. Manfresca related that this was also true for appellant's low back. Appellant currently demonstrated signs of lumbar strain. The torquing nature of her slip would translate forces through the soft tissues of the lumbar spine the same as they would for her hip. Dr. Manfresca maintained that if not directly related, then the strain pattern was secondary to walking, twisting, and bending repeatedly at work while favoring her injured hip. He indicated that contrary to the discrepancy in the statement of injury provided by appellant's surgeon, she did not fall to the ground. Rather, appellant's feet came out from under her and what is frequently the case, the act of grabbing on to something to prevent a fall, results in more severe soft tissue injury-tearing muscles, tendons, or ligaments versus sustaining contusions from direct trauma. Dr. Manfresca indicated that appellant was off work based on her surgeon's recommendation.

In a physical therapy report and daily treatment notes dated March 29 and April 1, 2, and 4, 2019, Dr. Ryan Cahall, an attending chiropractor, examined appellant and diagnosed left rotator cuff tear, strain of the muscle fascia tendon of the left hip, aggravation of left osteoarthritis, and strain of the lumbar muscle fascia tendon.

In a March 21, 2019 Form CA-20 report, Dr. Manfresca noted a history of injury that on October 20, 2018 appellant slipped while pulling a heavily loaded APC. He restated his prior diagnoses of left rotator cuff tear, left hip strain, aggravation of left hip osteoarthritis, and lumbar strain. Dr. Manfresca checked a box marked "Yes" indicating that the diagnosed conditions were caused or aggravated by an employment activity. He noted that appellant caught herself after an APC stopped suddenly which caused her to lose her footing and she then tore her rotator cuff and strained her hip when she grabbed the cart to prevent herself from falling to the floor. Dr. Manfresca further noted that her period of total disability was uncertain.

On April 22, 2019 appellant requested a review of the written record by a representative of OWCP's Branch of Hearings and Review regarding the March 8, 2019 decision. In support of her request, she submitted medical evidence. Appellant submitted daily treatment notes dated April 8 through May 2, 2019 from Dr. Cahall.

Appellant also submitted an April 22, 2019 Form CA-20 report from Dr. Martin, who noted a history of injury that on October 21, 2018 appellant was lifting heavy trays when she lost her balance and slipped and grabbed a pallet jack to keep from falling onto the floor. Dr. Martin diagnosed left shoulder bursitis and tendinitis. He checked a box marked "Yes" indicating that the diagnosed conditions were caused or aggravated by an employment activity. Dr. Martin noted that appellant was totally disabled for the period October 21, 2018 through June 10, 2019. He further noted that she had undergone left shoulder arthroscopic debridement and rotator cuff repair on February 21, 2019.

In an April 30, 2019 report, Dr. Manfresca reexamined appellant and reiterated his diagnoses of left rotator cuff tear, strain of the muscle fascia tendon of the left hip, aggravation of left hip osteoarthritis, and strain of the lumbar muscle fascia tendon. He also restated his opinion that the diagnosed conditions were causally related to the October 20, 2018 employment incident.

On May 8, 2019 appellant withdrew her request for a review of the written record to pursue reconsideration.

On May 9, 2019 appellant requested reconsideration. In letters dated March 12 and May 8, 2019, she reiterated the factual history of her claim explaining that she lifted overloaded trays and on October 20, 2018 she pulled an overloaded BMC.

Appellant also submitted additional medical evidence. In a November 14, 2018 left hip MRI scan report, Dr. Dave Pranav, a Board-certified diagnostic radiologist, provided an impression of moderate to advanced osteoarthritis in the left hip joint with prominent focal degenerative-type bone marrow edema with cystic change in the posteroinferior aspect of the left femoral head with lesser degree of degenerative subchondral bone marrow edema in the posterior left acetabulum. He noted that hip x-rays were not available for review at that time. Dr. Pranav also provided an impression of no evidence of acute fracture, avascular necrosis, or neoplastic change. Further, he provided an impression of osseus ankylosis of the left SI joint. In a left shoulder MRI scan report of even date, Dr. Pranav provided impressions of moderate supraspinatus tendinosis without tear, mild-to-moderate subscapularis tendinosis without tear, mild-to-moderate bursitis, and small glenohumeral joint effusion with a small six-millimeter focus of synovitis and/or intra-articular body in the subscapularis recess.

Dr. Martin, in a February 21, 2019 operative report, noted that he performed left shoulder arthroscopy with arthroscopic rotator cuff repair and intra-articular debridement labrum, and biceps tenotomy extensive. On March 9, 2019 he reported that appellant presented for a follow-up of evaluation of her rotator cuff repair. Dr. Martin noted that she was doing well, and her pain was well controlled. In a March 29, 2019 report, he noted that appellant still had pain issues and she had started physical therapy.

OWCP received additional daily treatment notes dated May 6 through June 19, 2019 from Dr. Cahall. In a June 3, 2019 report, Dr. Cahall restated his prior diagnoses of left rotator cuff tear, strain of the muscle fascia tendon of the left hip, aggravation of left osteoarthritis, and strain of the lumbar muscle fascia tendon.

Dr. Manfresca, in a June 4, 2019 report reiterated his prior left shoulder, left hip, and lumbar diagnoses. He noted that appellant had continued left shoulder, left bicep, left hip, and gluteus muscle groups symptoms related to her October 20, 2018 employment incident. Appellant also continued to be off work.

By decision dated June 26, 2019, OWCP denied modification of the March 8, 2019 decision, finding that the medical evidence submitted was insufficient to establish that appellant's diagnosed medical conditions were causally related to the accepted employment incident.

OWCP continued to receive daily treatment notes dated June 25 through November 13, 2019 and reports dated August 13 and October 16, 2019 from Dr. Cahall in which he restated his diagnoses left shoulder, left hip, and lumbar conditions.

OWCP also received additional reports dated July 9 and August 6, 2019 from Dr. Manfresca in which he continued to diagnose left rotator cuff tear, strain of the muscle fascia tendon of the left hip, aggravation of left hip osteoarthritis, and strain of the lumbar muscle fascia tendon. Dr. Manfresca also continued to opine that appellant had lingering symptoms of her diagnosed conditions related to the October 20, 2018 employment incident. He disagreed with OWCP's finding that appellant's conditions were not employment related, noting that he had corrected appellant's history of injury to reflect that she slipped rather than fell to the ground.

In a July 8, 2019 report, Dr. Martin provided an assessment of status post rotator cuff tear with persistent pain. He performed an injection into the left shoulder subacromial space to provide relief.

On September 3, 2019 appellant requested reconsideration of the June 26, 2019 decision and submitted additional medical evidence. In narrative reports dated August 14, September 9, October 14, and November 16, 2019 and Form CA-17 reports dated October 14 and November 18, 2019, Dr. Manfresca reiterated his prior left shoulder, left hip, and lumbar diagnoses, and opinion on causal relationship.

By decision dated November 19, 2019, OWCP denied modification of the June 26, 2019 decision.

OWCP subsequently received additional daily treatment notes dated November 19, 2019 through February 24, 2020 and a December 30, 2019 narrative progress report from Dr. Cahall.

Additional reports dated December 18, 2019 and January 20, 2020 from Dr. Manfresca restated his prior left shoulder, left hip, and lumbar diagnoses, and opinion on causal relationship were also received.

Dr. Martin, in reports dated November 6 and December 18, 2019, discussed findings on physical examination. He provided assessments of status post left shoulder rotator cuff repair and possible injection to relieve appellant's left hip pain.

In a November 22, 2019 left shoulder MRI scan report, Dr. David Berns, a Board-certified diagnostic radiologist, provided an impression of downward tilting of the acromioclavicular joint that would be consistent with the clinical diagnosis of impingement syndrome. He also provided an impression of no evidence of rotator cuff tear. Dr. Berns found evidence of prior surgery with metallic artifact noted in the humeral head in the greater tuberosity.

On March 9, 2020 appellant requested reconsideration of the November 19, 2019 decision and submitted additional medical evidence. In a February 18, 2020 report, Dr. Manfresca continued to disagree with the finding that appellant's diagnosed conditions were not employment related, again noting that he had corrected her history of injury and that his opinion on causal relationship was based on his examination findings and review of medical records. He noted that on October 20, 2018 appellant was transporting a fully loaded APC, but when she was unable to push the cart she instead pulled it. As appellant was pulling the cart with both hands and walking backwards there was a faulty wheel that jammed casing the cart to abruptly stop. As a result, her feet slipped out from under her and to prevent herself from falling backwards and hitting her head on the floor she instinctively reached out and grabbed the cage on the cart. This maneuver prevented appellant from falling all the way to the floor, but it caused her to twist jerking her shoulder and trunk resulting in sudden onset of pain in her left shoulder and right hip down to her right knee. The force of all her body weight falling was transmitted through her shoulder resulting in a sudden, forceful abduction and torquing of the shoulder, stretching, or lengthening tendons that were unprepared to do so which overstretched and tore the left rotator cuff. Dr. Manfresca related that this was a classic mechanism of such an injury. He again opined that the accepted employment incident was the direct and proximal cause to appellant's injury. Dr. Manfresca also attributed her left rotator cuff tear to accumulating chronic stress on the tendons and soft tissue structures from repetitive lifting to and above shoulder height, pushing and pulling APC carts for

hours a day over a 14-year period, and her age. Further, he attributed appellant's left hip diagnosis to her history of injury, maintaining that a slip and loss of balance while pulling a heavily loaded cart caused a sudden jerk and torquing over a loaded joint resulting in translatory stress across the hip joint which was already arthritic in nature. This increased friction led to an increase in inflammation, which was evidence by sudden onset of pain and subsequent worsening over the next 24 hours to a severe level associated with difficulty ambulating and necessitating an emergency room visit. Dr. Manfresca maintained that appellant's history, symptomology, and clinical evaluation supported with a high degree of medical certainty that employment incident was the direct and proximate cause of the aggravation of her hip osteoarthritis.

OWCP also received a March 2, 2020 report and daily treatment notes dated March 2, 3, and 10, 2020 from Dr. Cahall.

By decision dated April 2, 2020, OWCP denied modification of the November 19, 2019 decision.

On June 24, 2020 appellant requested reconsideration and submitted statements dated March 12, May 8, and June 1, 2020 which reiterated the factual history of her claim. She also submitted an additional report dated April 2, 2020 from Dr. Manfresca who disagreed with OWCP's April 2 2020 decision, reiterating that her diagnosed conditions were causally related to the October 20, 2018 employment incident.

By decision dated September 22, 2020, OWCP denied modification of the April 2, 2020 decision.

OWCP continued to receive reports dated February 22, March 24, May 5, June 23, July 26, and August 25, 2021 from Dr. Manfresca. It also received daily treatment notes and reports dated March 8 through August 18, 2021 from Dr. Cahall.

Dr. Berns, in a February 26, 2021 left shoulder MRI scan report, provided impressions of evidence of rotator cuff surgery and increasing fluid signal around the anchors in the humeral head.

In an August 3, 2021 letter, Dr. Jeremy Mathis, an osteopathic Board-certified orthopedic surgeon, related a history of the October 20, 2018 employment incident, indicating that appellant slipped while pulling heavy equipment. He reported findings on physical examination, reviewed diagnostic test results, and provided an impression of left shoulder pain.

In an August 25, 2021 letter, Dr. Mark Gittins, an osteopathic physician Board-certified in orthopedic surgery, noted that appellant sustained work-related injuries in 2006 and 2018. He reported findings on physical examination and reviewed diagnostic test results. Dr. Gittins provided impressions of left hip pain, left hip sprain and strain, and left hip primary osteoarthritis.

On September 22, 2021 appellant requested reconsideration of the September 22, 2020 decision.

OWCP continued to receive reports dated September 27, October 27, and December 1, 2021 from Dr. Manfresca and a report and daily treatment notes dated September 8 through November 17, 2021 from Dr. Cahall.

By decision dated December 13, 2021, OWCP denied modification of the September 22, 2020 decision.

LEGAL PRECEDENT

An employee seeking benefits under FECA[4] 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,[5] 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.[6] 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.[7]

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 that 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. The second component is whether the employment incident caused a personal injury and can be established only by medical evidence.[8]

The medical evidence required to establish causal relationship is rationalized medical opinion evidence.[9] 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.[10]

[4] *Id*.

[5] *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).

[6] *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).

[7] *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).

[8] *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).

[9] *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).

[10] *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 not met her burden of proof to establish a medical condition causally related to the accepted October 20, 2018 employment incident.

In support of her claim, appellant submitted a series of reports dated March 21, 2019 through December 1, 2021 from Dr. Manfresca. Dr. Manfresca initially provided a history of injury that appellant slipped and fell on October 20, 2018 while pushing a heavily loaded APC and subsequently reported a history that she slipped on the date of injury. He diagnosed left rotator cuff tear, strain of the muscle fascia tendon of the left hip, aggravation of left hip osteoarthritis, and strain of the lumbar muscle fascia tendon. In his narrative reports, Dr. Manfresca opined that appellant's diagnosed conditions were causally related to the October 20, 2018 incident. In his CA-20 form reports, he checked a box marked "Yes" in response to a question as to whether the conditions were caused or aggravated by an employment activity. In his CA-17 form reports, Dr. Manfresca indicated that appellant's diagnosed conditions were due to injury. While these reports generally support causal relationship, the Board finds that this evidence is of limited probative value as it provided an inaccurate history of injury. Moreover, the Board notes that Dr. Manfresca did not provide a rationalized medical opinion explaining how the accepted incident of lifting trays and pulling an APC physiologically caused appellant's diagnosed conditions. When a physician's opinion on causal relationship consists only of checking a box marked "Yes" in response to a form question, without explanation or rationale, that opinion has limited probative value and is insufficient to establish a claim.[11] Additionally, Dr. Manfresca did not provide adequate medical rationale relating the diagnosed medical conditions to the accepted October 20, 2018 employment incident in his Form CA-17 reports and narrative reports.[12] The Board notes that OWCP accepted that appellant lifted heavy trays and pulled a APC. In a February 18, 2020 report, Dr. Manfresca continued to disagree with the finding that appellant's diagnosed conditions were not employment related and he noted that he had corrected her history of injury to reflect that on October 20, 2018 she was transporting a fully loaded APC, but when she was unable to push the cart she instead pulled it and slipped while performing this maneuver. He opined that appellant's slip physiologically caused the diagnosed conditions. The Board has previously explained that medical reports which contain an incorrect history of injury are of limited probative value.[13] Therefore, for these reasons, Dr. Manfresca's reports are insufficient to establish appellant's claim.

Appellant also submitted a series of reports dated November 21, 2018 through December 18, 2019 from Dr. Martin. In his reports, Dr. Martin also noted a history that on October 20, 2018 appellant fell at work. He diagnosed left shoulder bursitis and left hip osteoarthritis. In his Form CA-20 reports, Dr. Martin checked a box marked "Yes" in response to

[11] *See J.K.*, Docket No. 20-0527 (issued May 24, 2022); *J.K.*, Docket No. 20-0590 (issued July 17, 2020); *J.A.*, Docket No. 17-1936 (issued August 13, 2018); *Donald W. Long*, 41 ECAB 142 (1989); *Lillian M. Jones*, 34 ECAB 379, 381 (1982).

[12] *B.P.*, Docket No. 21-0872 (issued December 8, 2021); *L.S.*, Docket No. 20-0570 (issued December 15, 2020); *E.H.*, Docket No. 19-1352 (issued December 18, 2019); *E.C.*, Docket No. 17-1645 (issued June 11, 2018).

[13] *D.W.*, Docket No. 22-0109 (issued May 17, 2022); *M.G.*, Docket No. 18-1616 (issued April 9, 2020); *see J.M.*, Docket No. 17-1002 (issued August 22, 2017) (a medical opinion must reflect a correct history and offer a medically sound explanation by the physician of how the specific employment incident physiologically caused or aggravated the diagnosed conditions).

a question as to whether the conditions were caused or aggravated by an employment activity. While these reports generally support causal relationship, the Board finds that this evidence is of limited probative value as it provided an inaccurate history of injury. As noted, OWCP accepted that appellant lifted heavy trays. Further, as noted, the Board has previously explained that medical reports which contain an incorrect history of injury are of limited probative value.[14] Additionally, the Board notes that Dr. Martin did not offer a rationalized medical opinion explaining how the accepted incident physiologically caused appellant's diagnosed conditions. As noted, when a physician's opinion on causal relationship consists only of checking a box marked "Yes" in response to a form question, without explanation or rationale, that opinion has limited probative value and is insufficient to establish a claim.[15] Moreover, in his Form CA-17 reports and narrative reports, he did not provide sufficient medical rationale relating the diagnosed medical conditions to the accepted October 20, 2018 employment incident and, thus, these reports are of diminished probative value.[16] Dr. Martin's remaining reports addressed appellant's left shoulder condition and surgical treatment, but did not provide an opinion addressing 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.[17] For these reasons, the Board finds that Dr. Martin's reports are insufficient to establish appellant's claim.

Dr. Gittins' August 25, 2021 report provided impressions of left hip pain, left hip sprain and strain, and left hip primary osteoarthritis, but also did offer an opinion addressing whether appellant's diagnosed conditions were causally related to the October 20, 2018 employment injury. As noted above, 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.[18]

The x-ray report of Dr. Magee and MRI scan reports of Dr. Pranav and Dr. Berns were submitted. The Board has held that diagnostic studies, standing alone, are of limited probative value as they do not address whether the employment incident caused any of the diagnosed conditions.[19] Thus, these reports are insufficient to establish appellant's claim.

Dr. Dull's October 29, 2018 report noted appellant's left shoulder, hip, and knee pain. The Board has held that pain is a symptom and not a compensable medical diagnosis.[20] For this reason, Dr. Dull's report is insufficient to establish appellant's claim. Her remaining return to work/school note of even date set forth appellant's work restrictions without a firm diagnosis. The Board has held that without a valid medical diagnosis of a current medical condition linked to the accepted

[14] *Supra* note 11.

[15] *Supra* note 12.

[16] *Supra* note 13.

[17] *J.H.,* Docket No. 20-1414 (issued April 5, 2022); *S.W.*, Docket No. 19-1579 (issued October 9, 2020); *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

[18] *Id*.

[19] *J.G.,* Docket No. 21-1334 (issued May 18, 2022); *J.P.*, Docket No. 19-0216 (issued December 13, 2019); *A.B.*, Docket No. 17-0301 (issued May 19, 2017).

[20] *See B.T.,* Docket No. 22-0022 (issued May 23, 2022); *S.L.*, Docket No. 19-1536 (issued June 26, 2020); *D.Y.*, Docket No. 20-0112 (issued June 25, 2020).

employment incident, the medical component of fact of injury cannot be met.[21] Thus, this note is insufficient to establish the medical component of fact of injury.

Dr. Mathis' August 3, 2021 report also provided an impression of left shoulder pain. As noted, the Board has held that pain is a symptom and not a compensable medical diagnosis.[22] Thus, Dr. Mathis' report is insufficient to establish appellant's claim.

Appellant submitted physical therapy reports and daily treatment notes dated March 29, 2019 through November 17, 2021 from Dr. Cahall, a chiropractor. However, a chiropractor is only considered a physician for purposes of FECA if he or she diagnoses subluxation based upon x-ray evidence.[23] Dr. Cahall did not diagnose subluxation as demonstrated by x-ray to exist. Therefore, these reports and treatment notes are of no probative value and are insufficient to establish appellant's claim.

The record also contains reports signed by a certified nurse practitioner and a registered nurse. Certain healthcare providers such as physician assistants, nurse practitioners, and physical therapists are not considered qualified physicians as defined under FECA.[24] Their medical findings, reports and/or opinions, unless cosigned by a qualified physician, will not suffice for purposes of establishing entitlement to FECA benefits.[25]

As appellant has not submitted rationalized medical evidence to establish a medical condition causally related to the accepted October 20, 2018 employment incident, the Board finds that she 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.

---

[21] *L.T.*, Docket No. 20-0582 (issued November 15, 2021); *K.B.*, Docket No. 16-0122 (issued April 19, 2016); *D.N.*, Docket No. 15-0987 (issued August 3, 2015).

[22] *Supra* note 20.

[23] Section 8101(2) of FECA provides that the term "physician" includes chiropractors only to the extent that their reimbursable services are limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by x-ray to exist and subject to regulations by the Secretary. 5 U.S.C. § 8101(2); *K.W.*, Docket No. 20-0230 (issued May 21, 2021); *J.D.*, Docket No. 19-1953 (issued January 11, 2021); *George E. Williams*, 44 ECAB 530 (1993).

[24] 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 also* Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3a(1) (January 2013); *J.D.*, Docket No. 21-0164 (issued June 15, 2021) (nurse practitioners are not physicians as defined under FECA); *C.G.*, Docket No. 20-0957 (issued January 27, 2021); *P.S.*, Docket No. 17-0598 (issued June 23, 2017) (registered nurses are not considered physicians as defined under FECA); *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).

[25] *J.D., id.*; *K.A.*, Docket No. 18-0999 (issued October 4, 2019); *K.W.*, 59 ECAB 271, 279 (2007); *David P. Sawchuk, id.*

CONCLUSION

The Board finds that appellant has not met her burden of proof to establish a medical condition causally related to the accepted October 20, 2018 employment incident.

ORDER

IT IS HEREBY ORDERED THAT the December 13, 2021 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: March 23, 2023
Washington, DC

Janice B. Askin, Judge
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board

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