

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

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C.C., Appellant )	
and )	
U.S. POSTAL SERVICE, NORTH HOUSTON )	<b>Docket No. 23-0496</b>
POST OFFICE, Houston, TX, Employer )	<b>Issued: November 17, 2023</b>
_____ )	

*Appearances:*  
*Appellant, pro se*  
*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 February 22, 2023 appellant filed a timely appeal from a February 2, 2023 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act<sup>1</sup> (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.<sup>2</sup>

**ISSUE**

The issue is whether appellant has met her burden of proof to establish a diagnosed medical condition in connection with the accepted December 17, 2022 employment incident.

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<sup>1</sup> 5 U.S.C. § 8101 *et seq.*

<sup>2</sup> The Board notes that, following the February 2, 2023 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.*

## **FACTUAL HISTORY**

On December 22, 2022 appellant, then a 21-year-old rural carrier associate, filed a traumatic injury claim (Form CA-1) alleging that on December 17, 2022 she injured her left shoulder while in the performance of duty. She noted that she felt a pop and immediate pain in her left shoulder when she delivered a package containing a mattress. Appellant stopped work on December 21, 2022 and returned to full-duty work on December 23, 2022.

In a December 21, 2022 statement, appellant described the December 17, 2022 employment incident and noted that she sought treatment in the emergency room that day.

In a December 23, 2022 development letter, OWCP informed appellant of the deficiencies of her claim. It advised her of the type of factual and medical evidence needed to establish her claim and afforded her 30 days to submit the necessary evidence.

Thereafter, OWCP received a December 22, 2022 report by Sauda Alam, a nurse practitioner, who noted that appellant related complaints of pain in the left shoulder, which she attributed to lifting a package on December 17, 2022. She performed a physical examination, which revealed reduced range of motion of the left shoulder in all planes. Ms. Alam also ordered x-rays of the left shoulder, which were normal. She diagnosed an unspecified sprain of the left shoulder joint and referred appellant for an orthopedic surgery consultation. In a separate form and duty status report (Form CA-17) of even date, Ms. Alam recommended that appellant remain out of work until December 30, 2022.

A December 27, 2022 state workers' compensation form report bearing an illegible signature indicated that appellant should continue to remain out of work until January 9, 2023. A physical therapy prescription of even date bearing an illegible signature reflected a diagnosis of left shoulder impingement syndrome.

In a report dated January 4, 2023, Ashley N. Fritts, a physical therapist, noted that appellant related complaints of left shoulder pain after delivering a mattress on December 17, 2022. She recommended various therapeutic modalities.

A January 9, 2023 Form CA-17 bearing an illegible signature reflected a diagnosis of left shoulder pain and released appellant to return to work with restrictions of lifting no more than 10 pounds and no kneeling, pushing, pulling, twisting, reaching above shoulder height, driving, or operating machinery.

By decision dated February 2, 2023, OWCP accepted that the December 17, 2022 employment incident occurred, as alleged. However, it denied appellant's claim, finding that the medical evidence of record was insufficient to establish a medical diagnosis in connection with the accepted employment incident. Consequently, OWCP found that she had not met the requirements to establish an injury as defined by FECA.

## 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. 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. The second component is whether the employment incident caused an injury.<sup>7</sup>

The medical evidence required to establish a 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 the specific employment incident identified by the claimant.<sup>9</sup>

## ANALYSIS

The Board finds that appellant has not met her burden of proof to establish a diagnosed medical condition in connection with the accepted December 17, 2022 employment incident.

In support of her claim, appellant submitted a December 27, 2022 state workers' compensation form report and a January 9, 2023 Form CA-17 bearing illegible signatures and a

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<sup>3</sup> *Supra* note 1.

<sup>4</sup> *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> *A.S.*, Docket No. 19-1955 (issued April 9, 2020); *Leslie C. Moore*, 52 ECAB 132 (2000).

physical therapy prescription dated December 27, 2022, also bearing an illegible signature, and reflecting a diagnosis of left shoulder impingement syndrome. Reports that are unsigned or that bear illegible signatures cannot be considered probative medical evidence because they lack proper identification<sup>10</sup> because the author cannot be identified as a physician.<sup>11</sup>

Appellant also submitted a note by Ms. Fritts, a physical therapist, and reports by Ms. Alam, a nurse practitioner, who diagnosed a left shoulder sprain. These reports have no probative value, however, because physical therapists and nurse practitioners are not considered physicians as defined under FECA.<sup>12</sup>

The Board finds that there is no evidence of record that establishes a medical diagnosis from a qualified physician in connection with the accepted employment incident. Consequently, appellant has not met her burden of proof.<sup>13</sup>

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 December 17, 2022 employment incident.

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<sup>10</sup> *W.L.*, Docket No. 19-1581 (issued August 5, 2020).

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

<sup>12</sup> Section 8102(2) of FECA provides as follows: (2) 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 E.H.*, Docket No. 23-0373 (issued July 7, 2023) (nurse practitioners are not considered physicians as defined under FECA); *Jane White*, 34 ECAB 515, 518 (1983) (physical therapists are not considered physicians within the meaning of FECA).

<sup>13</sup> *See D.C.*, Docket No. 21-0806 (issued February 1, 2023).

**ORDER**

**IT IS HEREBY ORDERED THAT** the February 2, 2023 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: November 17, 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