

¹ 5 U.S.C. § 8101 *et seq.*

He stopped work on February 24, 2023, and returned to work on that same day. The employing establishment checked the box “Yes” in response to whether the injury was in the performance of duty and whether its knowledge of the facts agreed with the statements of the employee.

OWCP received a March 7, 2023 duty status report (Form CA-17) from Dr. Sierra Ladnier, a chiropractor, who noted that she examined appellant on February 28, 2023, and that appellant was injured on February 24, 2023, when he slipped on stairs and fell on his back. The report noted findings of neck pain, upper back pain, and sprained ligaments, and provided work restrictions which included a 20-pound lifting restriction.

In a development letter dated March 31, 2023, OWCP informed appellant of the deficiencies in his claim. It advised him of the type of factual and medical evidence necessary to establish his claim and provided a questionnaire for his completion. OWCP noted that the medical reports were signed by a chiropractor and advised that chiropractors do not qualify as physicians under FECA unless there is a diagnosis of spinal subluxation as demonstrated by x-ray. It afforded appellant 60 days to provide the necessary evidence.

OWCP received chiropractic reports from Dr. Ladnier dated February 28, March 2, 6, 9, 20, and April 13, 2023. Dr. Ladnier noted appellant’s history of injury on February 24, 2023. She related that he presented with neck and upper back pain. Dr. Ladnier diagnosed cervicalgia, excluding cervicalgia due to intervertebral disc disorder; segmental and somatic dysfunction of cervical region; pain in thoracic spine; segmental and somatic dysfunction of thoracic region; and sprain of the ligaments of the thoracic spine, initial encounter. She indicated that she provided appellant with chiropractic adjustments and manipulative therapy.

In a development letter dated April 27, 2023, OWCP informed appellant that it had performed an interim review of the case file and found that the evidence remained insufficient to support his claim. It again explained that chiropractors are only considered physicians for purposes of FECA in cases where they diagnose a spinal subluxation based upon x-ray evidence. OWCP afforded appellant 60 days to submit the necessary evidence.

In a May 23, 2023 narrative report, Dr. Ladnier noted that she initially examined appellant on February 28, 2023 following his February 24, 2023 slip and fall at work, which resulted in direct impact on the upper back and neck area and immediate pain. She also noted that he had no history of preexisting injury. Dr. Ladnier noted findings of tenderness and localized pain of the upper back and neck area, restricted range of motion (ROM) in the cervical and thoracic spine, myofascial dysfunction in the affect region, and no visible deformities or signs of traumatic changes. She also noted that February 28, 2023 x-rays of the thoracic spine, including lateral and anterior-posterior (AP) views, revealed no evidence of traumatic change, a mild dextroscoliosis, and demonstrated spinal subluxations. She provided a copy of the x-rays. Dr. Ladnier diagnosed sprain of ligaments of thoracic spine, initial encounter; segmental and somatic dysfunction of thoracic region; segmental and somatic dysfunction of cervical region; pain in thoracic spine; and cervicalgia, excluding cervicalgia due to intervertebral disc disorder. She opined that the reported work incident directly caused appellant’s medical condition. Dr. Ladnier explained that the slip and fall on icy steps resulted in a forceful impact on his upper back and neck area and caused trauma to the cervical and thoracic regions, tissue damage, inflammation, and subsequent pain, which hindered his ability to carry out his regular work duties. She noted that the lack of

preexisting symptoms or complaints in the affected regions further supported the causal relationship between the work incident and appellant's current conditions. Dr. Ladnier explained that the clinical course of treatment was aimed at managing pain, reducing inflammation, and promoting proper healing of tissues, and noted that his response to the prescribed treatment further corroborated the causal link between the work incident and the medical condition.

By decision dated June 9, 2023, OWCP accepted that the February 24, 2023 employment incident occurred as alleged; however, it denied appellant's traumatic injury claim, finding that he had not submitted medical evidence containing a medical diagnosis from a qualified physician in connection with the accepted employment incident. It concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA. OWCP noted that the evidence was from a chiropractor; however, she did not diagnose a subluxation of the spine.

LEGAL PRECEDENT

An employee seeking benefits under FECA² 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,³ 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.⁴ 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.⁵

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 an injury and can be established only by medical evidence.⁶

² *Id.*

³ *See J.V.*, Docket No. 23-0039 (issued May 15, 2023); *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).

⁴ *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).

⁵ *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).

⁶ *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).

The medical evidence required to establish a causal relationship between a claimed specific condition and an employment incident is rationalized medical opinion evidence.⁷ 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.⁸

ANALYSIS

The Board finds that appellant has established a diagnosed medical condition in connection with the accepted February 24, 2023 employment incident.

The Board notes that Section 8101(2) of FECA provides that the term physician, as used therein, 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 regulation by the Secretary.⁹

Appellant submitted reports dating from February 28 to May 23, 2023, from Dr. Ladnier, a chiropractor. In her May 23, 2023 report, Dr. Ladnier diagnosed sprain of ligaments of thoracic spine, initial encounter; segmental and somatic dysfunction of thoracic region; segmental and somatic dysfunction of the cervical region; pain in thoracic spine; and cervicgia, excluding cervicgia due to intervertebral disc disorder. OWCP's regulations at 20 C.F.R. § 10.5(bb) have defined subluxation as an incomplete dislocation, off-centering, misalignment, fixation or abnormal spacing of the vertebrae which must be demonstrable on an x-ray film to an individual trained in the reading of x-rays. Dr. Ladnier also noted in her May 23, 2023 report that appellant's February 28, 2023 x-rays of the thoracic spine, including lateral and AP views, revealed demonstrated spinal subluxations. She also provided a copy of the x-rays. Based upon this report indicating that spinal subluxations were demonstrated by x-ray, the Board finds that Dr. Ladnier is a qualified physician under FECA, and her opinion constitutes competent medical evidence.¹⁰ The Board, therefore, finds that the record establishes diagnosed medical conditions in connection with the accepted employment incident.¹¹

The Board further finds, however, that this case is not in posture for decision with regard to whether the diagnosed medical condition is causally related to the accepted February 24, 2023 employment incident. As the medical evidence of record establishes diagnosed medical conditions, the case must be remanded for consideration of the medical evidence with regard to

⁷ *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).

⁸ *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).

⁹ 5 U.S.C. § 8101(2); *see S.B.*, Docket No. 21-1022 (issued May 5, 2022); *J.D.*, Docket No. 19-1953 (issued January 11, 2021); *T.T.*, Docket No. 18-0838 (issued September 19, 2019); *Thomas W. Stevens*, 50 ECAB 288 (1999).

¹⁰ *Id.*

¹¹ *See M.H.*, Docket No. 23-0189 (issued March 17, 2023); *S.A.*, Docket No. 20-1498 (issued March 11, 2021); *A.H.*, Docket No. 20-0730 (issued October 27, 2020); *B.C.*, Docket No. 20-0079 (issued October 16, 2020).

the issue of causal relationship.¹² Following this and other such further development as deemed necessary, OWCP shall issue a *de novo* decision.

CONCLUSION

The Board finds that appellant has established a diagnosed medical condition in connection with the accepted February 24, 2023 employment incident.

ORDER

IT IS HEREBY ORDERED THAT the June 9, 2023 decision of the Office of Workers' Compensation Programs is reversed, and the case is remanded for further proceedings consistent with this decision of the Board.

Issued: November 27, 2023
Washington, DC

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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

¹² See *F.D.*, Docket No. 21-1045 (issued December 22, 2021).