

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

S.P., Appellant)	
)	
and)	Docket No. 23-0436
)	Issued: September 18, 2023
U.S. POSTAL SERVICE, YOUNGSTOWN)	
POST OFFICE, Youngstown, OH, Employer)	
)	

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
PATRICIA H. FITZGERALD, Deputy Chief Judge
VALERIE D. EVANS-HARRELL, Alternate Judge
JAMES D. MCGINLEY, Alternate Judge

JURISDICTION

On February 8, 2023 appellant filed a timely appeal from a January 9, 2023 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act¹ (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 medical condition causally related to the accepted October 1, 2021 employment incident.

¹ 5 U.S.C. § 8101 *et seq.*

FACTUAL HISTORY

On January 24, 2022 appellant, then a 49-year-old letter carrier, filed a traumatic injury claim (Form CA-1) alleging that on October 1, 2021 he injured his lower back when he slipped while carrying mail in the performance of duty. He stopped work on October 2, 2021.²

In a January 20, 2022 duty status report (Form CA-17), Dr. Michael Engle, a Board-certified physiatrist, diagnosed lumbar and sacral sprain and returned appellant to work with restrictions.

In a development letter dated February 2, 2022, OWCP informed appellant of the deficiencies of his claim. It advised him of the necessary factual and medical evidence, and provided a questionnaire for his completion. OWCP afforded appellant 30 days respond.

In a Form CA-17 dated February 17, 2022, Dr. Engle diagnosed lower sacral injury at L4-L5 and S1-S2 and continued appellant's work restrictions.

By decision dated March 7, 2022, OWCP denied appellant's traumatic injury claim, finding that the evidence of record was insufficient to establish that the injury and/or events occurred as he described. It noted that he had not responded to its February 2, 2022 development questionnaire or provided information clarifying the alleged October 1, 2021 employment incident. OWCP concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

On March 20, 2022 appellant requested reconsideration of the March 7, 2022 decision. He asserted that he was attaching a report of Dr. Engle, but no such report was submitted.

By decision dated March 24, 2022, OWCP denied appellant's request for reconsideration of the merits of his claim, pursuant to 5 U.S.C. § 8128(a).

On October 11, 2022 appellant requested reconsideration of his claim. OWCP received additional evidence, including an October 1, 2021 report of Dr. Shilp Shah, Board-certified in emergency medicine, who treated appellant in the emergency room for right lower leg swelling and pain. Appellant reported that he slipped on the rail of his truck at work, and experienced swelling, pain, and redness in the right lower leg. His medical history was significant for a deep vein thrombosis (DVT) in his right lower leg the prior year. Dr. Shah noted findings on examination of marked local edema to the right lower extremity with erythema, edema to the posterior right calf and medial/lateral right ankle, and local tenderness to the right Achilles posteriorly. He indicated that appellant was admitted for observation. In a form report of work ability, Dr. Shah noted that appellant was totally disabled beginning October 1, 2021. In another form report of even date, he noted that appellant slipped on a rail of a truck and his leg "popped" and swelled. Dr. Shah diagnosed cellulitis of the right leg, chronic DVT of the right leg, and

² The record reveals that appellant had filed another claim, assigned OWCP File No. xxxxxx393, for a traumatic injury occurring on October 1, 2021, which was accepted by OWCP for right leg Achilles tendinitis and right leg posterior muscle strain. This claim is not before the Board on the current appeal.

Achilles tendinitis. He checked a box marked “Yes” to indicate that appellant’s injury was causally related to the employment incident.

An October 1, 2021 computerized tomography (CT) scan of the right tibia and fibula revealed subcutaneous edema in the right leg with perifascial edema along the gastrocnemius muscle and possibly fasciitis. A duplex venous ultrasound of the right lower extremity of even date revealed peripheral, nonocclusive thrombus from the mid-right superficial femoral vein into the calf likely chronic DVT.

On November 3, 2021 Dr. Sean T. McGrath, a Board-certified physiatrist, diagnosed right gastrocnemius sprain/strain and right Achilles tendinitis, and referred appellant for physical therapy.

In an undated letter, Dr. Engle indicated that appellant first presented in April 2021 following a work-related injury in February 2021 when he slipped and fell on ice at work, landing on his buttocks. Appellant was treated for lumbar sprain/strain with physical therapy. He reported increasing back pain in September 2021 without an inciting event. Appellant further reported that, within a week, he sustained another work-related injury when he slipped off the back of his postal truck and felt a pop in his right calf. He continued to have back pain and in November 2021 underwent trigger point injections with significant improvement. Appellant stopped work after he suffered a heart attack in mid-January 2022 and was awaiting heart valve surgery. He also submitted unsigned documents which show that Dr. Engle treated him on December 1, 2021. The documents provided post treatment care instructions for lumbar injections.

By decision dated January 9, 2023, OWCP modified its prior decision, finding that appellant had established that the October 1, 2021 employment incident occurred as alleged. However, it further denied his claim, finding that the medical evidence of record was insufficient to establish causal relationship between a diagnosed condition and his accepted October 1, 2021 employment incident.

LEGAL PRECEDENT

An employee seeking benefits under FECA³ 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,⁴ 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

³ *Id.*

⁴ *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).

employment injury.⁵ 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.⁶

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. First, 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. Second, the employee must submit sufficient evidence to establish that the employment incident caused a personal injury.⁷

The medical evidence required to establish a causal relationship is rationalized medical opinion evidence.⁸ 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.⁹

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish a medical condition causally related to the accepted October 1, 2021 employment incident.

Appellant submitted Form CA-17 reports from Dr. Engle dated January 20 and February 17, 2022. In these reports, Dr. Engle diagnosed lumbar and sacral sprain, as well as lower sacral injury at L4-L5 and S1-S2. He indicated that appellant could return to work with restrictions. Dr. Engle, however, did not offer an opinion as to whether appellant's diagnosed conditions were causally related to the employment incident in these Form CA-17 reports. 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.¹⁰ Accordingly, these reports are insufficient to establish appellant's claim.

In an undated letter, Dr. Engle provided a detailed history of claimed work-related injuries occurring in February and October 2021. In February 2021, appellant reported slipping and falling on ice at work and was treated for lumbar sprain/strain. In October 2021, he reported sustaining

⁵ *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).

⁶ *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).

⁷ *T.J.*, Docket No. 19-0461 (issued August 11, 2020); *K.L.*, Docket No. 18-1029 (issued January 9, 2019); *John J. Carlone*, 41 ECAB 354 (1989).

⁸ *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).

⁹ *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).

¹⁰ *See L.B.*, Docket No. 19-1907 (issued August 14, 2020); *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

another work-related injury when he slipped off the back of his postal truck and felt a pop in his right calf. However, Dr. Engle failed to specifically address whether the October 1, 2021 employment incident either caused or contributed to appellant's diagnosed conditions. As noted above, 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.¹¹ Therefore, his opinion is insufficient to meet appellant's burden of proof.

Appellant submitted an October 1, 2021 report from Dr. Shah who diagnosed right lower leg swelling and pain. He reported that appellant slipped at work and experienced worsening swelling, pain, and redness in the right lower leg. In a form report of even date, Dr. Shah diagnosed cellulitis of the right leg, chronic DVT of the right leg, and Achilles tendinitis. In a form report of work ability, also dated October 1, 2021, he noted that appellant was totally disabled. On November 3, 2021 Dr. McGrath diagnosed right gastrocnemius sprain/strain and right Achilles tendinitis. However, neither physician provided a notable history of the claimed October 1, 2021 injury or an opinion regarding causal relationship. The Board has held that a physician must provide a narrative description of the identified employment incident, and a reasoned opinion on whether the described incident caused or contributed to a diagnosed medical condition.¹² Lacking these elements, these reports are insufficient to establish appellant's claim.¹³

Appellant also submitted unsigned documents, which show that Dr. Engle treated appellant on December 1, 2021. The documents provided post treatment care instructions for lumbar injections. However, the Board has held that unsigned reports cannot be considered probative medical evidence because they do not provide an indication that the person completing the report qualifies as a physician under FECA.¹⁴

Appellant submitted diagnostic testing reports in support of his claim. The Board has held that diagnostic studies, standing alone, lack probative value on the issue of causal relationship as they do not provide an opinion as to whether the employment incident caused any of the diagnosed conditions.¹⁵ This evidence is therefore insufficient to establish appellant's claim.

As the medical evidence of record is insufficient to establish a medical condition causally related to the accepted October 1, 2021 employment incident, the Board finds that appellant 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.

¹¹ *See id.*

¹² *K.B.*, Docket No. 19-0398 (issued December 18, 2019).

¹³ *Id.*; *T.G.*, Docket No. 19-1441 (issued January 28, 2020).

¹⁴ *B.S.*, Docket No. 22-0918 (issued August 29, 2022); *see S.D.*, Docket No. 21-0292 (issued June 29, 2021); *C.B.*, Docket No. 09-2027 (issued May 12, 2010); *Merton J. Sills*, 39 ECAB 572, 575 (1988).

¹⁵ *C.B.*, Docket No. 20-0464 (issued July 21, 2020).

CONCLUSION

The Board finds that appellant has not met his burden of proof to establish a medical condition causally related to the accepted October 1, 2021 employment incident.

ORDER

IT IS HEREBY ORDERED THAT the January 9, 2023 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: September 18, 2023
Washington, DC

Patricia H. Fitzgerald, Deputy Chief Judge
Employees' Compensation Appeals Board

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

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