United States Department of Labor
Employees' Compensation Appeals Board

H.A., Appellant	)	
and	)	**Docket No. 24-0004**
	)	**Issued: January 26, 2024**
U.S. POSTAL SERVICE, POST OFFICE, Tampa, FL, Employer	)	

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

Case Submitted on the Record

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Chief Judge
VALERIE D. EVANS-HARRELL, Alternate Judge
JAMES D. McGINLEY, Alternate Judge

JURISDICTION

On October 4, 2023 appellant filed a timely appeal from an August 7, 2023 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act[1] (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 her burden of proof to establish a diagnosed medical condition in connection with the accepted April 25, 2023 employment incident.

FACTUAL HISTORY

On May 2, 2023 appellant, then a 38-year-old city carrier, filed a traumatic injury claim (Form CA-1) alleging that on April 25, 2023 she sustained a head injury when the postal vehicle

[1] 5 U.S.C. § 8101 *et seq.*

she was operating was struck from behind while in the performance of duty. She stopped work on the date of claimed injury and returned to full-duty work on April 28, 2023.

In support of her claim, appellant submitted an April 25, 2023 note by Kevin Ware, a physician assistant, who advised that she remain out of work through April 28, 2023.

In a May 10, 2023 development letter, OWCP informed appellant of the deficiencies in her claim. It advised her of the type of factual and medical evidence needed to establish her claim. OWCP afforded her 60 days to submit the requested evidence.

OWCP thereafter received an April 25, 2023 emergency department report and after-visit summary by Mr. Ware, who noted that appellant related complaints of headache and dizziness, which she attributed to a rear-end motor vehicle accident (MVA). Appellant related that, as a result of the MVA, she hit the back of her head against the headrest but did not lose consciousness. Mr. Ware performed a physical examination and ordered a computerized tomography (CT) scan of appellant's head, which were both normal. He diagnosed "motor vehicle accident, initial encounter," prescribed medication, and referred her to orthopedics.

A report of a CT scan of appellant's head of April 25, 2023 was negative for acute intracranial abnormality.

OWCP also received an April 25, 2023 traffic crash report.

By decision dated July 17, 2023, OWCP denied appellant's claim, finding that the evidence of record was insufficient to establish a diagnosed medical condition in connection with the accepted April 25, 2023 employment incident. It concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

On August 1, 2023 appellant requested reconsideration of OWCP's July 17, 2023 decision. In support of the request, she submitted an attending physician's report (Form CA-20) dated August 1, 2023, which contained a diagnosis of "motor vehicle collision, initial encounter" and was signed by "Bran D. Wiley for/Kevin Ware."

By decision dated August 7, 2023, OWCP denied modification of its July 17, 2023 decision.

LEGAL PRECEDENT

An employee seeking benefits under FECA[2] 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

[2] *Id*.

[3] *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.[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. 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 an injury.[6]

The medical evidence required to establish 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 the employment incident identified by the employee.[8]

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish a diagnosed medical condition in connection with the accepted April 25, 2023 employment incident.

In support of her claim, appellant submitted an emergency department report, after-visit summary, and an out-of-work note dated April 25, 2023 by Mr. Ware, a physician assistant. Certain healthcare providers such as physician assistants, nurse practitioners, and physical therapists are not considered qualified physicians as defined under FECA.[9] Their medical findings, reports and/or opinions, unless cosigned by a qualified physician, will not suffice for purposes of

[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).

[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] 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); *H.S.*, Docket No. 20-0939 (issued February 12, 2021) (physician assistants 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).

establishing entitlement to FECA benefits.[10] Consequently, these reports are insufficient to meet appellant's burden of proof.

Appellant also submitted an August 1, 2023 Form CA-20 signed by "Bran D. Wiley/for Kevin Ware." The report does not indicate a specialty for Mr. Wiley, and therefore, lacks proper identification[11] as the author cannot be identified as a physician.[12] Consequently, this report is also insufficient to meet appellant's burden of proof.

The remaining evidence of record consists of a report of an April 25, 2023 CT scan. The Board has held that diagnostic studies, standing alone, lack probative value, and are insufficient to establish the claim.[13] Therefore, this report is also insufficient to meet appellant's burden of proof.

As the medical evidence of record is insufficient to establish a diagnosed medical condition in connection with the accepted April 25, 2023 employment incident, the Board finds that appellant 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.

CONCLUSION

The Board finds that appellant has not met her burden of proof to establish a diagnosed medical condition in connection with the accepted April 25, 2023 employment incident.

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

[11] *W.L.*, Docket No. 19-1581 (issued August 5, 2020).

[12] *D.T.*, Docket No. 20-0685 (issued October 8, 2020); *Merton J. Sills*, 39 ECAB 572, 575 (1988).

[13] *J.K.*, Docket No. 20-0591 (issued August 12, 2020); *A.B.*, Docket No. 17-0301 (issued May 19, 2017).

ORDER

IT IS HEREBY ORDERED THAT the August 7, 2023 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: January 26, 2024
Washington, DC

Alec J. Koromilas, 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