

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

V.S., Appellant

and

**U.S. POSTAL SERVICE, CASTAIC POST
OFFICE, Santa Clarita, CA, Employer**

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**Docket No. 23-1050
Issued: March 27, 2024**

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

Case Submitted on the Record

DECISION AND ORDER

Before:

ALEC J. KOROMILAS, Chief Judge

JANICE B. ASKIN, Judge

VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On August 3, 2023 appellant filed a timely appeal from a July 31, 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 her burden of proof to establish a diagnosed medical condition in connection with the accepted March 16, 2023 employment incident.

FACTUAL HISTORY

On May 8, 2023 appellant, then a 53-year-old city carrier, filed a traumatic injury claim (Form CA-1) alleging that on March 16, 2023 she injured her elbow, right fingers, and knees when she tripped over the forks of a pallet jack and fell while in the performance of duty. On the reverse

¹ 5 U.S.C. § 8101 *et seq.*

side of the claim form, her supervisor acknowledged that she was injured in the performance of duty. Appellant did not stop work.

In a May 11, 2023 development letter, OWCP notified appellant of the deficiencies of her claim. It advised her of the type of factual and medical evidence needed. OWCP afforded appellant 60 days to respond.

Appellant subsequently submitted a May 16, 2023 report from Dr. Marie David, a Board-certified family medicine physician, who related appellant's history of injury and observed examination findings of tenderness to palpation of the left elbow and limited active range of motion (ROM) with flexion of the right index finger. Dr. David diagnosed pain to left elbow, pain to right index finger, status post fall, and pain to the knees.

Right hand and left elbow x-rays dated May 16, 2023 revealed no abnormalities.

In a May 24, 2023 report, Eunice Hall, a nurse practitioner, reviewed appellant's left elbow and right hand x-rays and noted that appellant had a history of bilateral knee replacements. She diagnosed left elbow pain, right index finger pain, and status post fall. In a partially legible report dated June 7, 2023, Ms. Hall diagnosed status post fall and limited ROM of the knees.

In a May 26, 2023 statement, appellant described the factual circumstances of the employment incident.

In June 21 and July 3, 2023 development letters, OWCP notified appellant of the ongoing deficiencies of her claim. It advised her of the type of medical evidence needed. OWCP reminded appellant that she had 60 days from its May 11, 2023 letter to respond.

Appellant subsequently submitted an undated report from Dr. David indicating that she had viewed evidence of appellant tripping over a pallet jack at work on March 16, 2023 and opined that her injuries were related to the fall. She noted that, though appellant's x-rays were normal, she continued to have pain, stiffness, shooting pain, pain with ROM, swelling, and numbness with symptoms radiating down to her left arm and hands.

By decision dated July 31, 2023, OWCP accepted that the March 16, 2023 employment incident occurred, as alleged. However, it denied appellant's claim, finding that she had not submitted a medical report, which diagnosed a medical condition in connection with the accepted March 16, 2023 employment incident. Consequently, OWCP found that the requirements had not been met to establish an injury as defined by FECA.

LEGAL PRECEDENT

An employee seeking benefits under FECA has the burden of proof to establish the essential elements of their claim, including the fact that the individual is an employee of the United States within the meaning of FECA and that the claim was filed within the applicable time limitation period of FECA, 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.² 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.³

To determine if an employee has sustained a traumatic injury in the performance of duty, OWCP begins with an analysis of whether fact of injury has been established. Fact of injury consists of two components that must be considered in conjunction with one another. The first component is whether the employee actually experienced the employment incident that allegedly occurred at the time and place, and in the manner alleged.⁴ The second component is whether the employment incident caused an injury.⁵

Causal relationship is a medical issue, and the medical evidence required to establish causal relationship is rationalized medical opinion evidence.⁶ 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.⁷

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish a diagnosed medical condition in connection with the accepted March 16, 2023 employment incident.

In a May 16, 2023 report, Dr. David diagnosed pain to left elbow, pain to right index finger, status post fall, and pain to bilateral knees. In an undated report, she described appellant's ongoing symptoms of pain, stiffness, shooting pain, pain with ROM, swelling, and numbness with symptoms radiating down to her left arm and hands. However, the Board has held that pain is a description of a symptom, not a diagnosis of a medical condition.⁸ Medical reports lacking a firm

² *J.M.*, Docket No. 17-0284 (issued February 7, 2018); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

³ *K.M.*, Docket No. 15-1660 (issued September 16, 2016); *L.M.*, Docket No. 13-1402 (issued February 7, 2014); *Delores C. Ellyett*, 41 ECAB 992 (1990).

⁴ *B.P.*, Docket No. 16-1549 (issued January 18, 2017); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁵ *M.H.*, Docket No. 18-1737 (issued March 13, 2019); *John J. Carlone*, 41 ECAB 354 (1989).

⁶ *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).

⁷ *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).

⁸ See *K.S.*, Docket No. 19-1433 (issued April 26, 2021); *S.L.*, Docket No. 19-1536 (issued June 26, 2020); *D.Y.*, Docket No. 20-0112 (issued June 25, 2020).

diagnosis and a rationalized medical opinion regarding causal relationship are of no probative value.⁹ Therefore, this evidence is insufficient to meet appellant's burden of proof.¹⁰

Appellant submitted May 24 and June 7, 2023 reports from Ms. Hall, a nurse practitioner. The Board has held that certain healthcare providers such as physician assistants, nurse practitioners, physical therapists, and social workers are not considered physician[s] as defined under FECA.¹¹ Consequently, their medical findings and/or opinions will not suffice for purposes of establishing entitlement to FECA benefits.¹²

The remaining evidence consists of diagnostic reports. The Board has held that diagnostic studies, standing alone, are of limited probative value as they do not address whether the employment injury caused appellant to be disabled during the claimed period.¹³ These reports are, therefore, insufficient to establish the claim.

As the medical evidence of record is insufficient to establish a diagnosed medical condition in connection with the accepted March 16, 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 March 16, 2023 employment incident.

⁹ See *A.C.*, Docket No. 20-1510 (issued April 23, 2021); *J.P.*, Docket No. 20-0381 (issued July 28, 2020); *R.L.*, Docket No. 20-0284 (issued June 30, 2020).

¹⁰ See *J.P.*, Docket No. 18-0349 (issued December 30, 2019); *D.D.*, 57 ECAB 734 (2006).

¹¹ 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. § 8102(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 *A.B.*, Docket No. 23-0827 (issued December 27, 2023) (nurse practitioners are not considered physicians as defined under FECA).

¹² *Id.*

¹³ See *A.D.*, Docket No. 21-0143 (issued November 15, 2021); *J.S.*, Docket No. 17-1039 (issued October 6, 2017).

ORDER

IT IS HEREBY ORDERED THAT the July 31, 2023 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: March 27, 2024
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