

)	
W.O., Appellant)	
)	
and)	Docket No. 24-0062
)	Issued: March 8, 2024
U.S. POSTAL SERVICE, VEHICLE)	
MAINTENANCE FACILITY, Anchorage, AK,)	
Employer)	
)	

Case Submitted on the Record

Before:
ALEC J. KOROMILAS, Chief Judge
PATRICIA H. FITZGERALD, Deputy Chief Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

On October 30, 2023 appellant filed a timely appeal from an October 26, 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.²

² The Board notes that, following the October 26, 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.*

ISSUE

The issue is whether appellant has met his burden of proof to establish a diagnosed medical condition in connection with the accepted July 31, 2023 employment incident.

FACTUAL HISTORY

On August 1, 2023 appellant, then a 32-year-old automotive mechanic, filed a traumatic injury claim (Form CA-1) alleging that he sustained body aches and discomfort to his left lower back extending through the left leg after he was involved in a motor vehicle accident on July 31, 2023 while in the performance of duty.

On August 2, 2023 the employing establishment completed and signed an authorization for examination and/or treatment (Form CA-16). In the attending physician's report, Part B of the Form CA-16, dated August 4, 2023, Dr. Kathryn Ryan, a family medicine specialist, noted that appellant's vehicle was hit on the left front bumper. On examination she observed musculoskeletal tenderness of the paraspinal muscle, and she diagnosed muscle tension pain. Dr. Ryan checked a box marked "Yes" indicating that his condition was caused or aggravated by the employment activity described.

In a development letter dated August 11, 2023, OWCP informed appellant of the deficiencies of his claim. It advised him of the type of factual and medical evidence necessary and provided a questionnaire for his completion. OWCP afforded appellant 60 days to respond.

In progress notes dated August 4, 2023, Dr. Ryan continued to treat appellant for complaints of lower back and left leg pain and stiffness, with a tingling sensation in the leg. On physical examination, she observed tenderness and tension of the left paraspinal muscles. Dr. Ryan diagnosed lower back and left leg pain, and muscle tension pain. She recommended that appellant return to work without restrictions as of August 7, 2023.

On September 12, 2023 OWCP advised appellant that it had conducted an interim review and had found that the evidence remained insufficient to establish his claim. It reminded appellant that he had 60 days from August 11, 2023 to submit the requested information.

By decision dated October 26, 2023, OWCP accepted that the July 31, 2023 employment incident occurred, as alleged. However, it denied the claim, finding that the medical evidence of record was insufficient to establish a diagnosed medical condition in connection with the accepted employment incident. Thus, appellant had not met the requirements 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 his or her claim, including the fact 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 period 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 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.⁶ The second component is whether the employment incident caused an injury.⁷

Rationalized medical opinion evidence is required to establish causal relationship. The opinion of the physician must be based on a complete factual and medical background, 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.⁸

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish a diagnosed medical condition in connection with the accepted July 31, 2023 employment incident.

Appellant submitted a form report and progress notes from Dr. Ryan dated August 4, 2023. Dr. Ryan diagnosed lower back and left leg pain, and muscle tension pain. The Board notes that under FECA, the assessment of pain is not considered a compensable medical diagnosis, as pain merely refers to a symptom of an underlying condition.⁹ As such, the form report and progress notes from Dr. Ryan dated August 4, 2023 are insufficient to establish appellant's claim.

As the medical evidence of record is insufficient to establish a diagnosed medical condition in connection with the accepted July 31, 2023 employment incident, the Board finds that appellant has not met his burden of proof.

³ *S.B.*, Docket No. 17-1779 (issued February 7, 2018); *J.P.*, 59 ECAB 178 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

⁴ *J.M.*, Docket No. 17-0284 (issued February 7, 2018); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

⁵ *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).

⁶ *B.P.*, Docket No. 16-1549 (issued January 18, 2017); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁷ *M.H.*, Docket No. 18-1737 (issued March 13, 2019); *John J. Carlone*, 41 ECAB 354 (1989).

⁸ *M.O.*, Docket No. 19-1398 (issued August 13, 2020); *J.L.*, Docket No. 18-1804 (issued April 12, 2019).

⁹ *J.L.*, Docket No. 20-1662 (issued October 7, 2022); *D.B.*, Docket No. 21-0550 (issued March 7, 2022).

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 10.607.¹⁰

CONCLUSION

The Board finds that appellant has not met his burden of proof to establish a diagnosed medical condition in connection with the accepted July 31, 2023 employment incident.

ORDER

IT IS HEREBY ORDERED THAT the October 26, 2023 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: March 8, 2024
Washington, DC

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

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

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

¹⁰ The Board notes that the employing establishment issued a Form CA-16, dated August 2, 2023. A completed Form CA-16 authorization may constitute a contract for payment of medical expenses to a medical facility or physician, when properly executed. The form creates a contractual obligation, which does not involve the employee directly, to pay for the cost of the examination or treatment regardless of the action taken on the claim. *See* 20 C.F.R. § 10.300(c); *V.S.*, Docket No. 20-1034 (issued November 25, 2020); *J.G.*, Docket No. 17-1062 (issued February 13, 2018); *Tracy P. Spillane*, 54 ECAB 608 (2003).