United States Department of Labor
Employees' Compensation Appeals Board

R.B., Appellant	)	
and	)	**Docket No. 25-0361**
	)	**Issued: April 23, 2025**
U.S. POSTAL SERVICE, PHILADELPHIA PROCESSING & DISTRIBUTION CENTER, Philadelphia, PA, 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
PATRICIA H. FITZGERALD, Deputy Chief Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On March 5, 2025 appellant filed a timely appeal from November 18, 2024 and February 26, 2025 merit decisions of the Office of Workers' Compensation Programs (OWCP).[1] Pursuant to the Federal Employees' Compensation Act[2] (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.[3]

[1] Appellant submitted a timely request for oral argument before the Board. 20 C.F.R. § 501.5(b). Pursuant to the Board's *Rules of Procedure*, oral argument may be held in the discretion of the Board. 20 C.F.R. § 501.5(a). In support of appellant's oral argument request, he asserted that he provided sufficient medical records to support his claim. The Board, in exercising its discretion, denies appellant's request for oral argument because this matter requires an evaluation of the medical evidence presented. As such, the arguments on appeal can adequately be addressed in a decision based on a review of the case record. Oral argument in this appeal would further delay issuance of a Board decision and not serve a useful purpose. For these reasons, oral argument is denied, and this decision is based on the case record as submitted to the Board.

[2] 5 U.S.C. § 8101 *et seq*.

[3] The Board notes that, following the February 26, 2025 decision, appellant submitted additional evidence to OWCP. However, the Board's *Rules of Procedures* 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.

ISSUE

The issue is whether appellant has met his burden of proof to establish a diagnosed medical condition in connection with the accepted September 9, 2024 employment incident.

FACTUAL HISTORY

On September 10, 2024 appellant, then a 53-year-old general expeditor, filed a traumatic injury claim (Form CA-1) alleging that on September 9, 2024 he sustained injuries to his neck, shoulders, and back when pulling equipment while in the performance of duty. He stopped work on September 10, 2024. On the reverse side of the claim form, the employing establishment controverted the claim, contending that appellant performed unsafe procedures when moving equipment by pulling when he should have been pushing.

Along with his Form CA-1, appellant submitted a statement, explaining that on September 9, 2024, he was pushing and pulling two containers which caused injuries to his shoulders, back, and neck. He explained that sometimes the containers were defective and hard to push/pull.

An after-visit summary, dated September 10, 2024, indicated that appellant was treated in the emergency department by Dr. Russell Yoon, a Board-certified emergency medicine specialist, and Sara Morrison, a nurse practitioner, for acute right-sided back pain without sciatica.

In a separate September 10, 2024 report, Ms. Morrison noted that appellant was evaluated and treated in the emergency department on September 10, 2024 and could return to work on September 13, 2024. In a report of work status (Form CA-3), the employing establishment indicated that appellant had stopped work on September 10, 2024, and returned to full-duty work on September 13, 2024.

In a September 17, 2024 development letter, OWCP informed appellant of the deficiencies of his claim. It advised him of the type of factual and medical evidence required and provided a questionnaire for his completion. OWCP afforded appellant 60 days to submit the necessary evidence. No additional evidence was received.

In a follow-up letter dated October 13, 2024, OWCP advised appellant that it had conducted an interim review, and the evidence remained insufficient to establish his claim. It noted that he had 60 days from the September 17, 2024 letter to submit the necessary evidence. OWCP further advised that if the requested evidence was not received during this time, it would issue a decision based on the evidence contained in the record. No additional evidence was received.

By decision dated November 18, 2024, OWCP accepted that the September 9, 2024 employment incident occurred, as alleged. However, it denied the claim, finding that the evidence of record was insufficient to establish a diagnosed medical condition in connection with the accepted September 9, 2024 employment incident. OWCP concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

On February 21, 2025 appellant requested reconsideration.

In support thereof, appellant submitted a September 10, 2024 report, wherein Dr. Yoon, reported that appellant had presented to the emergency department for evaluation of paraspinal

neck and lumbar back pain. Dr. Yoon noted a consistent examination and history and no musculoskeletal red flags. He diagnosed acute right-sided low back pain without sciatica and recommended appellant follow up with his primary care physician.

By decision dated February 26, 2025, OWCP denied modification of its November 18, 2024 decision.

LEGAL PRECEDENT

An employee seeking benefits under FECA[4] 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,[5] 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.[6] 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.[7]

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 medical evidence to establish that the employment incident caused an injury.[8]

The medical evidence required to establish causal relationship between a claimed specific condition and an employment incident is rationalized medical opinion evidence.[9] 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.[10]

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[4] *Supra* note 1.

[5] *E.K.*, Docket No. 22-1130 (issued December 30, 2022); *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).

[6] *S.H.*, Docket No. 22-0391 (issued June 29, 2022); *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).

[7] *E.H.*, Docket No. 22-0401 (issued June 29, 2022); *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).

[8] *H.M.*, Docket No. 22-0343 (issued June 28, 2022); *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).

[9] *S.M.*, Docket No. 22-0075 (issued May 6, 2022); *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).

[10] *J.D.*, Docket No. 22-0935 (issued December 16, 2022); *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).

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish a diagnosed medical condition in connection with the accepted September 9, 2024 employment incident.

In support of his claim, appellant submitted September 10, 2024 reports, wherein Dr. Yoon noted that appellant presented to the emergency department for evaluation of paraspinal neck and lumbar back pain. Dr. Yoon diagnosed acute right-sided low back pain without sciatica. However, the Board has held that pain is a description of a symptom, not a diagnosis of a medical condition.[11] Medical reports lacking a firm diagnosis are of no probative value.[12] Therefore, this evidence is insufficient to establish appellant's claim.[13]

Appellant also submitted September 10, 2024 reports from Ms. Morrison, a nurse practitioner, placing him off work until September 13, 2024. However, certain health care providers such as nurses, physician assistants, and physical therapists are not considered physicians under FECA and, therefore, are not competent to provide a medical opinion.[14] As such, this evidence is of no probative value and insufficient to establish appellant's claim.[15]

As the medical evidence of record is insufficient to establish a diagnosed medical condition in connection with the accepted September 9, 2024 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.

CONCLUSION

The Board finds that appellant has not met his burden of proof to establish a diagnosed medical condition in connection with the accepted September 9, 2024 employment incident.

[11] *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).

[12] *See C.J.*, Docket No. 25-0072 (issued January 17, 2025); *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); *see also L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

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

[14] 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) (May 2023); *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 B.D.*, Docket No. 22-0503 (issued September 27, 2022 (nurse practitioners are not considered physicians as defined under FECA and their medical findings and/or opinions will not suffice for purposes of establishing entitlement to FECA benefits); *L.S.*, Docket No. 19-1231 (issued March 30, 2021) (a nurse practitioner is not considered a physician as defined under FECA).

[15] *Id.*

ORDER

IT IS HEREBY ORDERED THAT the February 26, 2025 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: April 23, 2025
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