United States Department of Labor
Employees' Compensation Appeals Board

T.D., Appellant	)	
and	)	**Docket No. 25-0195**
	)	**Issued: February 5, 2025**
U.S. POSTAL SERVICE, GREENSBURG POST OFFICE, Greensburg, 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
JANICE B. ASKIN, Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On December 6, 2024 appellant filed a timely appeal from an October 1, 2024 merit decision and a November 18, 2024 nonmerit decision 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, appellant described the work incident alleged to have caused injury and noted that her physician did not include all of the particulars. The Board, in exercising its discretion, denies appellant's request for oral argument because 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. As such, the oral argument request 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 November 18, 2024 decision, appellant submitted additional evidence on appeal. 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.*

ISSUES

The issues are: (1) whether appellant has met her burden of proof to establish a diagnosed medical condition in connection with the accepted July 23, 2024 employment incident; and (2) whether OWCP properly denied appellant's request for an oral hearing before an OWCP hearing representative as untimely filed, pursuant to 5 U.S.C. § 8124(b).

FACTUAL HISTORY

On July 25, 2024 appellant, then a 48-year-old rural delivery specialist, filed a traumatic injury claim (Form CA-1) alleging that on July 23, 2024, she sustained a fractured left rib and pulled muscle when lifting and moving heavy packages while in the performance of duty. She stopped work on July 23, 2024.

In a development letter dated August 2, 2024, OWCP informed appellant of the deficiencies of her claim. It advised her of the type of factual and medical evidence necessary and provided a questionnaire for her completion. OWCP afforded appellant 60 days to respond. No additional evidence was received.

In a follow-up letter dated August 26, 2024, OWCP advised appellant that it had performed an interim review and that the evidence of record remained insufficient to establish her claim. It noted that she had 60 days from the August 2, 2024 letter to submit the requested supporting evidence. OWCP further advised that if the requested evidence was not received during this allotted period, it would issue a decision based on the evidence contained in the record.

An undated and unsigned authorization for examination and/or treatment (Form CA-16) noted a July 23, 2024 date of injury and described the injury as fractured ninth rib. In a September 18, 2024 attending physician's report, Part B of the Form CA-16, Dr. Alvaro N. Changco, a family medicine specialist, diagnosed a fractured ninth rib. He checked a box marked "Yes" indicating that the condition was caused or aggravated by the employment activity described.

In pages four and five of a report dated August 7, 2024, received by OWCP on September 19, 2024, Dr. Changco diagnosed a left rib fracture. The remainder of the report was not received by OWCP.

Appellant submitted a duty status report (Form CA-17) with no clear date or signature.

By decision dated October 1, 2024, OWCP accepted that the July 23, 2024 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.

In an attending physician's report (Form CA-20) dated July 23, 2024, Dr. Changco diagnosed a fractured rib and muscle strain. He indicated that these diagnoses were caused or aggravated by lifting at work and noted that appellant was totally disabled at that time.

On November 9, 2024 appellant requested an oral hearing before a representative of OWCP's Branch of Hearings and Review.

In a report dated October 29, 2024, Dr. Changco followed up with appellant. Appellant told Dr. Changco that on July 23, 2024 she lifted a package, turned, and felt a "pop." Afterward, she attempted to load her truck, pushed an all-purpose container through a doorway, and felt another "pop." Shortly thereafter, while attempting to help another co-worker with an oversized package, appellant felt short of breath. Dr. Changco diagnosed a rib fracture.

By decision dated November 18, 2024, OWCP denied appellant's request for an oral hearing, as the request was untimely filed. It informed her that her case had been considered in relation to the issues involved, and that the issues could be equally well addressed by requesting reconsideration and submitting evidence not previously considered establishing that she sustained a work-related injury.

LEGAL PRECEDENT -- ISSUE 1

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, 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.[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 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 at the time and place, and in the manner alleged.[7] The second component is whether the employment incident caused an injury.[8]

Causal relationship is a medical question that requires rationalized medical opinion evidence to resolve the issue. 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.[9]

[4] *Supra* note 2.

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

[6] *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).

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

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

[9] *S.S.*, Docket No. 18-1488 (issued March 11, 2019).

ANALYSIS -- ISSUE 1

The Board finds that appellant has established a diagnosed medical condition in connection with the accepted July 23, 2024 employment incident.

Appellant submitted a September 18, 2024 attending physician's report, Part B of a Form CA-16, from Dr. Changco wherein he diagnosed a fractured ninth rib and indicated it was due to the July 23, 2024 employment activity described.[10] Dr. Changco repeated this diagnosis in his August 7, 2024 report. The Board finds that these reports from Dr. Changco are sufficient to establish a diagnosed medical condition in connection with the accepted July 23, 2024 employment incident.[11]

As the medical evidence of record establishes a diagnosed medical condition, the case must be remanded for consideration of the medical evidence regarding the issue of causal relationship.[12] Following this and other such further development as deemed necessary, OWCP shall issue a *de novo* decision.[13]

CONCLUSION

The Board finds that appellant has met her burden of proof to establish a diagnosed medical condition in connection with the accepted July 23, 2024 employment incident

[10] The Board notes that where the evidence of record establishes that the employing establishment issued a completed and properly executed Form CA-16 authorization, such form may constitute a contract for payment of medical expenses to a medical facility or physician. 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); *J.J.*, Docket No. 24-0724 (issued July 20, 2024); *J.G.*, Docket No. 17-1062 (issued February 13, 2018); *Tracy P. Spillane*, 54 ECAB 608 (2003).

[11] *See E.T.*, Docket No. 22-1085 (issued January 18, 2023); *E.L.*, Docket No. 21-0587 (issued July 6, 2022); *see also T.C.*, Docket No. 17-0624 (issued December 19, 2017).

[12] *See A.B.*, Docket No. 24-0224 (issued April 1, 2024), *S.R.*, Docket No. 22-0453 (issued March 2, 2023); *S.A.*, Docket No. 20-1498 (issued March 11, 2021).

[13] In light of the Board's disposition of Issue 1, Issue 2 is rendered moot.

ORDER

IT IS HEREBY ORDERED THAT the October 1, 2024 decision of the Office of Workers' Compensation Programs is reversed, and the case is remanded for further proceedings consistent with this decision of the Board. The November 18, 2024 decision of the Office of Workers' Compensation Programs is set aside as moot.

Issued: February 5, 2025
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