

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

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**J.P., Appellant** )  
)

**and** )

**DEPARTMENT OF HOMELAND SECURITY,** )  
**TRANSPORTATION SECURITY** )  
**ADMINISTRATION, Rosemont, IL, Employer** )

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**Docket No. 15-483**  
**Issued: May 6, 2015**

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

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

CHRISTOPHER J. GODFREY, Chief Judge  
ALEC J. KOROMILAS, Alternate Judge  
JAMES A. HAYNES, Alternate Judge

**JURISDICTION**

On December 31, 2014 appellant filed a timely appeal from a December 9, 2014 merit decision of the Office of Workers' Compensation Programs (OWCP) denying her traumatic injury claim. Pursuant to the Federal Employees' Compensation Act<sup>1</sup> (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 met her burden of proof to establish that she sustained a lower back injury in the performance of duty on September 10, 2014.

**FACTUAL HISTORY**

On September 10, 2014 appellant, then a 52-year-old lead officer, filed a traumatic injury claim (Form CA-1) alleging that on that same date she sustained a lower back injury when she

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<sup>1</sup> 5 U.S.C. § 8101 *et seq.*

was getting off a bus and the driver closed the door on her back side. She notified her supervisor that same date.<sup>2</sup>

In a September 11, 2014 hospital discharge note, appellant sought treatment that same date with Dr. Bonny Chen, Board-certified in emergency medicine. Education materials were provided pertaining to a back sprain.

In a September 15, 2014 note, Dr. Sarah Siddiqui, a Doctor of Osteopathic Medicine, reported that appellant was unable to work until September 22, 2014 and could return to work light duty on September 23, 2014. In a referral form that same date, she noted a diagnosis of low back pain radiating to both legs and referred appellant to physical therapy. In an October 9, 2014 note, Dr. Siddiqui excused appellant from work on September 29 and 30, October 8 and 9, 2014 due to drowsiness from her medication.

Physical therapy notes dated September 23 to October 24, 2014 from Accelerated Rehabilitation Centers were also submitted.

By letter dated October 31, 2014, OWCP informed appellant that the evidence of record was insufficient to support her claim. Appellant was advised of the medical and factual evidence needed and was asked to respond within 30 days.

In medical reports dated September 15 through October 23, 2014, Dr. Siddiqui reported that appellant sustained a traumatic work injury in the street on September 10, 2014, complaining of pain in the lower back and legs. Upon physical examination, she diagnosed low back pain on left side with sciatica.

In an October 28, 2014 attending physician's report (Form CA-20), Dr. Siddiqui reported that on September 10, 2014 doors closed on appellant at work which caused her the sudden onset of severe back pain radiating down her legs. She provided findings of diffuse muscle spasm and tenderness in the lumbar region with decreased range of motion tender to palpation and movement. Dr. Siddiqui diagnosed low back pain radiating to both legs. She checked the box marked yes when asked if she believed the condition was caused or aggravated by the employment activity, noting that bus doors closed on appellant. In a duty status report (Form CA-17) of that same date, Dr. Siddiqui released appellant to full-duty work.

Physical therapy notes dated October 21 through 28, 2014 from Accelerated Rehabilitation Centers were also submitted.

By decision dated December 9, 2014, OWCP denied appellant's claim on the grounds that the evidence was insufficient to establish that she sustained an injury. It found that the September 10, 2014 incident occurred as alleged. However, the evidence failed to provide a firm medical diagnosis which could be reasonably attributed to the accepted employment incident. OWCP further noted that the medical evidence submitted contained a diagnosis of "pain" which is a symptom and not a diagnosed medical condition.

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<sup>2</sup> The Board notes that the record reflects that appellant has filed seven other traumatic injury claims filed from May 20, 2003 through June 12, 2014. No other information pertaining to these claims is before the Board.

## LEGAL PRECEDENT

An employee seeking benefits under FECA has the burden of establishing 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 filed within the applicable time limitation; that an injury was sustained while in the performance of duty as alleged; and that any disability or specific condition for which compensation is claimed are causally related to the employment injury.<sup>3</sup> These are the essential elements of each and every compensation claim regardless of whether the claim is predicated on a traumatic injury or an occupational disease.<sup>4</sup>

In order to determine whether an employee actually sustained a traumatic injury in the performance of duty, OWCP begins with an analysis of whether fact of injury has been established. Generally, fact of injury consists of two components which must be considered in conjunction with one another. The first component to be established is that the employee actually experienced the employment incident which is alleged to have occurred.<sup>5</sup> The second component is whether the employment incident caused a personal injury and generally can be established only by medical evidence.

To establish a causal relationship between the condition, as well as any attendant disability claimed and the employment event or incident, the employee must submit rationalized medical opinion evidence based on a complete factual and medical background, supporting such a causal relationship.<sup>6</sup> The opinion of the physician must be based on 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 factors identified by the claimant. This medical opinion must include an accurate history of the employee’s employment injury and must explain how the condition is related to the injury. The weight of medical evidence is determined by its reliability, its probative value, its convincing quality, the care of analysis manifested, and the medical rationale expressed in support of the physician’s opinion.<sup>7</sup>

## ANALYSIS

OWCP accepted that the September 10, 2014 employment incident occurred as alleged. The issue, therefore, is whether appellant submitted sufficient medical evidence to establish that the employment incident caused a lower back injury. The Board finds that she did not submit sufficient medical evidence to support that she sustained an injury causally related to the September 10, 2014 employment incident.<sup>8</sup> The medical evidence is deficient on several

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<sup>3</sup> *Gary J. Watling*, 52 ECAB 278 (2001); *Elaine Pendleton*, 40 ECAB 1143, 1154 (1989).

<sup>4</sup> *Michael E. Smith*, 50 ECAB 313 (1999).

<sup>5</sup> *Elaine Pendleton*, *supra* note 3.

<sup>6</sup> *See* 20 C.F.R. § 10.110(a); *John M. Tornello*, 35 ECAB 234 (1983).

<sup>7</sup> *James Mack*, 43 ECAB 321 (1991).

<sup>8</sup> *See Robert Broome*, 55 ECAB 339 (2004).

grounds: first, it fails to provide a firm diagnosis; and second, there is no narrative opinion on causal relationship between a diagnosed condition and the employment incident.

In medical reports dated September 15 through October 23, 2014, Dr. Siddiqui reported that appellant complained of pain in the lower back and legs after a September 10, 2014 traumatic work injury while on the street. Upon physical examination, she diagnosed low back pain on left side with sciatica. In an October 28, 2014 Form CA-20, Dr. Siddiqui reported that on September 10, 2014 bus doors closed on appellant at work which caused the sudden onset of severe back pain radiating down the legs. She provided findings of diffuse muscle spasm and tenderness in her lumbar region with decreased range of motion tender to palpation and movement. Dr. Siddiqui diagnosed low back pain radiating to both legs. She checked the box marked yes when asked if she believed the condition was caused or aggravated by the employment activity, noting that bus doors closed on appellant.

Dr. Siddiqui's diagnosis of low back pain is of no probative value. The Board has consistently held that pain and spasm are generally descriptions of symptoms and are not, in themselves, considered firm medical diagnoses.<sup>9</sup> Thus, the physician's clinical findings of muscle spasm are also insufficient to establish a firm medical diagnosis as it is generally a description of a symptom.<sup>10</sup> Dr. Siddiqui's October 28, 2014 Form CA-20 checked the box marked yes to indicate that employment activities caused or aggravated appellant's injury. The Board has held that an opinion on causal relationship that consists only of a physician checking yes to a medical form question on whether the claimant's condition was related to the history given is of little probative value.<sup>11</sup> Dr. Siddiqui's report further failed to provide any explanation or medical rationale for how appellant's injury was caused or aggravated by the September 10, 2014 employment incident. Moreover, while it opined that appellant's condition was work-related, she failed to diagnose a medical condition which could be related to the September 10, 2014 employment incident. Thus, Dr. Siddiqui's medical reports do not constitute probative medical evidence because they fail to provide a clear diagnosis and do not adequately explain the cause of appellant's injury.<sup>12</sup>

The physical therapy notes dated September 23 through October 28, 2014 are also insufficient to establish appellant's claim as they were not signed by a physician. Registered nurses, physical therapists and physicians assistants, they are not physicians as defined under FECA, their opinions are of no probative value.<sup>13</sup>

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<sup>9</sup> See *B.P.*, Docket No. 12-1345 (issued November 13, 2012) (regarding pain); *C.F.*, Docket No. 08-1102 (issued October 10, 2008) (regarding pain); *J.S.*, Docket No. 07-881 (issued August 1, 2007) (regarding spasm).

<sup>10</sup> *Id.*

<sup>11</sup> *C.Y.*, Docket No. 14-2075 (issued March 2, 2015); *Deborah L. Beatty*, 54 ECAB 334 (2003) (the checking of a box yes in a form report, without additional explanation or rationale, is insufficient to establish causal relationship).

<sup>12</sup> *Ceferino L. Gonzales*, 32 ECAB 1591 (1981).

<sup>13</sup> 5 U.S.C. § 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. See also *Roy L. Humphrey*, 57 ECAB 238 (2005).

The Board has held that the mere fact that a condition manifests itself during a period of employment does not raise an inference of causal relation.<sup>14</sup> An award of compensation may not be based on surmise, conjecture, speculation, or on the employee's own belief of causal relation.<sup>15</sup> To establish a firm medical diagnosis and causal relationship, appellant must submit a physician's report in which the physician reviews those factors of employment alleged to have caused her condition and, taking these factors into consideration, as well as findings upon examination and appellant's medical history, explain how these employment factors caused or aggravated any diagnosed condition, and present medical rationale in support of his opinion.<sup>16</sup>

In the instant case, appellant has established that the September 10, 2014 incident occurred as alleged. She has failed, however, to establish a firm medical diagnosis causally related to the accepted September 10, 2014 employment incident. Thus, appellant has failed to meet her burden of proof.

Appellant may submit additional evidence, together with a written request for reconsideration, to OWCP within one year of the Board's merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.606 and 10.607.

### **CONCLUSION**

The Board finds that appellant did not meet her burden of proof to establish that she sustained a lower back injury in the performance of duty on September 10, 2014.

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<sup>14</sup> *Daniel O. Vasquez*, 57 ECAB 559 (2006).

<sup>15</sup> *D.D.*, 57 ECAB 734 (2006).

<sup>16</sup> *Supra* note 5.

**ORDER**

**IT IS HEREBY ORDERED THAT** the December 9, 2014 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: May 6, 2015  
Washington, DC

Christopher J. Godfrey, Chief Judge  
Employees' Compensation Appeals Board

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

James A. Haynes, Alternate Judge  
Employees' Compensation Appeals Board