

submitted the motor vehicle accident report, which indicated she slowly slid across lanes, off the road and into a ditch due to inclement weather. No other motor vehicles were involved.

By letter dated March 3, 2009, the Office advised appellant of the factual and medical evidence necessary to establish her claim and allowed her 30 days to submit additional evidence.

A February 18, 2009 emergency room report noted appellant arrived by ambulance and had no complaints from a low speed motor vehicle accident. Appellant was released with no diagnosis of an injury provided.

By decision dated April 8, 2009, the Office denied the claim, finding that the medical evidence did not establish that appellant sustained an injury due to the February 18, 2009 incident.

On May 7, 2009 appellant requested a telephonic hearing before an Office hearing representative, which was held on August 10, 2009. She testified she was not disputing the claim, as she had no injury, but that she wished to be compensated for her \$298.00 emergency room charge. Appellant went to the emergency room by ambulance from the accident scene because that was the routine procedure, not because she was injured. She stated that, at the time of the accident, she was doing site visits of foreclosed properties using a government vehicle, which was part of her assigned duties. Appellant testified that the employing establishment did not give her a (Form CA-16) claim to authorize medical treatment.

In a March 16, 2009 statement, Patricia A. Snover, area specialist, verified that at the time of the accident appellant was in a government vehicle and in the performance of her duties. Additional emergency room notes dated February 18, 2009 provided no diagnosis of injury.

In an undated statement, appellant advised that she had received both a (Form CA-1) and a CA-16 form by e-mail the day of the accident, but did not get the e-mail until she returned to work the next day. She was advised to use the CA-16 form if she planned on getting treatment. Appellant stated that, since she had already been examined and released with no injury from the emergency room, she did not believe there was any reason to complete the CA-16 form.

By decision dated October 21, 2009, the Office's hearing representative affirmed the decision. The hearing representative found that appellant had not met her burden that she was injured as the result of the February 18, 2009 employment incident. The hearing representative further found that there was no basis for payment of appellant's emergency room visit on February 18, 2009 as appellant did not complete the CA-16 form and give it to her employer to authorize her hospital visit.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act¹ has the burden of establishing that 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 the Act, that the claim

¹ 5 U.S.C. § 8101 *et seq.*

was timely filed within the applicable time limitation period of the Act, that an injury was sustained in the performance of duty as alleged and that any disability and/or specific condition for which compensation is claimed are 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 whether a federal employee has sustained a traumatic injury in the performance of duty, it must first be determined whether a 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, place and in the manner alleged.⁴ Second, the employee must submit sufficient evidence, generally only in the form of medical evidence, to establish that the employment incident caused a personal injury.⁵

ANALYSIS

On February 18, 2009 appellant was involved in a motor vehicle accident during the performance of duty. However, the medical evidence does not establish that the accepted incident caused any injury. Appellant has not alleged any injury and the only medical evidence, the emergency room reports of February 18, 2009, contain no diagnosis of any injury. As the record lacks the necessary medical evidence to support appellant's claim, the Board finds that she did not meet her burden of proof to establish a traumatic injury on February 18, 2009.

Appellant has contended, before the Office and on appeal, that she filed the claim in order for her emergency room visit to be paid. However, while she was sent a CA-16 form for authorization of medical treatment, she did not complete it or give it to her employer. Appellant did not complete the CA-16 form, the Office hearing representative found there was no basis for payment of appellant's emergency room visit on February 18, 2009. Office regulations, however, provide that in unusual or emergency circumstances the Office may approve payment for medical expenses incurred otherwise than as authorized in that subpart.⁶ Office procedures provide that the Office may approve payment for medical expenses incurred even if a CA-16 form authorizing medical treatment and expenses has not been issued and the claim is subsequently denied; payment in such situations must be determined on a case-by-case basis.⁷

² *Joe D. Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

³ *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁴ *John J. Carlone*, 41 ECAB 354 (1989).

⁵ *Id.* For a definition of the term injury, see 20 C.F.R. §10.5(e).

⁶ 20 C.F.R. § 10.304.

⁷ Federal (FECA) Procedure Manual, Part 3 -- Medical, *Authorizing Examination and Treatment*, Chapter 3.300.3(a)(3) (October 1990). See *Jill Thimmesch*, 40 ECAB 572 (1989). See 20 C.F.R. § 10.304 that allows for payment of medical expenses in emergency or unusual circumstances otherwise than as authorized in that section of its regulations.

Appellant was involved in a motor vehicle accident while at work on February 18, 2009. She was transported by ambulance to a local hospital. In denying appellant's request for reimbursement of emergency room charges, the Office only considered whether a CA-16 form was properly issued and completed. It did not consider whether emergency circumstances or unusual circumstances were present or whether this was a situation in which reimbursement of medical expenses was otherwise appropriate. The circumstances of the case warrant additional development of this issue. The case will be remanded to the Office for further development consistent with this decision of the Board, followed by an appropriate decision.

CONCLUSION

The Board finds that appellant did not establish that she sustained an injury in the performance of duty on February 18, 2009. The case is returned to the Office for further consideration of appellant's reimbursement of medical expenses related to her emergency room visit on February 18, 2009.

ORDER

IT IS HEREBY ORDERED THAT the Office of Workers' Compensation Programs' decision dated October 21, 2009 is affirmed in part and set aside and remanded for further development consistent with this decision of the Board.

Issued: September 22, 2010
Washington, DC

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board

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