

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JANICE GUILLEMETTE and U.S. POSTAL SERVICE,
POST OFFICE, Shapleigh, ME

*Docket No. 03-1124; Submitted on the Record;
Issued August 25, 2003*

DECISION and ORDER

Before DAVID S. GERSON, MICHAEL E. GROOM,
A. PETER KANJORSKI

The issues are: (1) whether appellant sustained an injury in the performance of duty on September 21, 2002; and (2) whether the Office of Workers' Compensation Programs properly refused to reopen appellant's case for further reconsideration.

On September 21, 2002 appellant, then a 45-year-old temporary rural carrier, filed a notice of traumatic injury (Form CA-1) alleging that on September 21, 2002 she sustained an injury to her face and nose when her mail truck struck a tree and her face and nose hit the rearview mirror. Appellant missed no time from work. The employing establishment indicated on the reverse of the claim form that appellant was treated by Jeffrey Eaton, nurse practitioner, at Goodall Hospital.

Accompanying appellant's claim was an aftercare instruction sheet from the emergency room at Goodall Hospital. The instruction sheet contained language indicating that, "We have examined and treated you today on an emergency basis only." The instruction sheet also provided a definition of a contusion (bruise) for which treatment instructions were provided.

By letter dated October 9, 2002, the Office requested that appellant provide additional information. Specifically, dates of examination and treatment, a history of injury given by her to a physician, a detailed description of any findings, the results of all x-rays and laboratory tests, a diagnosis and course of treatment followed, and a physician's opinion supported by a medical explanation as to how the reported work incident caused the claimed injury. The Office explained that the physician's opinion was crucial to her claim. The Office allotted appellant 30 days within which to submit the requested information. Appellant did not respond within the time allotted.

By decision dated November 14, 2002, the Office denied appellant's claim, finding that the September 21, 2002 incident occurred as alleged, but that the evidence did not establish that a medical condition was diagnosed as a result of the incident.

By letter dated December 13, 2002, appellant requested reconsideration of the Office's November 14, 2002 decision. In support of the request, appellant contended that the local rescue team directed her to the hospital to make sure that she did not have a concussion. Appellant stated that while at the hospital she was diagnosed with a bruise, which was work related "as my motor vehicle accident occurred while I was delivering the mail." She suggested that the Office verify the foregoing by contacting her supervisor.

By decision dated March 14, 2003, the Office denied appellant's request for reconsideration finding that the evidence submitted was irrelevant to the issue of whether appellant sustained an injury while in the performance of duty on September 21, 2002 and, therefore, was insufficient to warrant review of the prior decision.

The Board finds that the case is not in posture for decision.

An employee seeking benefits under the Federal Employees' Compensation Act 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 the Act, that the claim was filed within the applicable time limitations 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."¹ These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or occupational disease.²

As the Office found in its November 14, 2002 decision, the evidence of record supports the fact that the claimed incident of appellant's mail truck striking a tree and her face and nose hitting the rearview mirror occurred at the time, place and in the manner alleged.

The case therefore rests on whether the incident at work caused an injury. The Office denied appellant's claim stating that the evidence of record did not support a medical condition resulting from the alleged work incident. Although causal relationship generally requires a rationalized medical opinion, the Office may accept a case without a medical report when one or more of the following criteria, as set forth in the Office's procedure manual,³ are satisfied:

"(a) The condition reported is a minor one which can be identified on visual inspection by a lay person (*e.g.*, burns, lacerations, insect sting or animal bite);

¹ *Elaine Pendleton*, 40 ECAB 1143, 1154 (1989).

² *David J. Overfield*, 42 ECAB 718, 721 (1991).

³ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3d (1)(a)-(c) (June 1995); *see also Timothy D. Douglas*, 49 ECAB 558 (1998).

“(b) The injury was witnessed or reported promptly and no dispute exists as to the fact of injury; and

“(c) No time was lost from work due to disability.”

In the present case, the condition reported, a contusion to appellant’s nose, meets the first criterion as the type of condition that can be identified on visual inspection by a lay person. There was no indication that the contusion was considered a serious condition. The first criterion is therefore satisfied.

The second criterion is also satisfied. Appellant’s supervisor signed the Form CA-1 on September 21, 2002, the same day of the incident, indicating that the injury was reported promptly. No dispute exists as to the fact of injury. Appellant’s supervisor noted on the Form CA-1 a “First Aid Injury” and stated that appellant did not stop work due to the September 21, 2002 employment injury. As the record indicates that appellant did not stop work and has not claimed disability due to this incident, the third criterion is also met. A medical report is therefore not necessary in this case. Accordingly, the Board finds that the record establishes that an injury occurred in the performance of duty.

Because the Office made no findings as to whether appellant was entitled to reimbursement for ambulance and other medical expenses, the case will be remanded for further development.⁴ The case will be remanded for the Office to make appropriate findings on these issues.⁵ After such further development as it considers necessary, the Office shall issue a *de novo* decision on appellant’s entitlement to benefits.

⁴ See *Timothy D. Douglas*, *supra* note 3; see also *Frederick Justiniano*, 45 ECAB 491, 496 (1994).

⁵ *Leon C. Collier*, 37 ECAB 278, 279-80 (1986).

Accordingly, the decisions of the Office of Workers' Compensation Programs dated March 14, 2003 and November 14, 2002 are set aside and the case is remanded for further development consistent with this opinion.⁶

Dated, Washington, DC
August 25, 2003

David S. Gerson
Alternate Member

Michael E. Groom
Alternate Member

A. Peter Kanjorski
Alternate Member

⁶ The Board's disposition of the first issue renders the second issue moot.