



from an airbag. Appellant's supervisor further advised that she was notified on June 28, 2004 of the injury and appellant did not lose any time from work.

By letter dated July 8, 2004, the Office asked appellant to submit additional information including a comprehensive medical report from her treating physician which included a reasoned explanation as to how the specific work factors or incidents identified by appellant had contributed to her claimed upper right arm injury. No response was received.

In a decision dated August 12, 2004, the Office denied appellant's claim on the grounds that the medical evidence was not sufficient to establish that her condition was caused by the factors of employment as required by the Federal Employees' Compensation Act.<sup>1</sup>

### **LEGAL PRECEDENT**

An employee seeking benefits under the 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 limitation of the Act, that an injury was sustained in the performance of duty as alleged and that any disability or specific condition for which compensation is claimed is causally related to the employment injury. 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.<sup>2</sup>

### **ANALYSIS**

As the Office found in its August 12, 2004 decision, the evidence of record supports the fact that the claimed incident of a motor vehicle accident occurred during the performance of duty on June 28, 2004 at the time, place and in the manner alleged.

The case therefore rests on whether the motor vehicle incident at work on June 28, 2004 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 employment 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,<sup>3</sup> 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);

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<sup>1</sup> 5 U.S.C. §§ 8101-8193.

<sup>2</sup> *Gary J. Watling*, 52 ECAB 357 (2001).

<sup>3</sup> 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, scratch and burn on the right arm, meets the first criterion as the type of condition that generally occurs following a motor vehicle accident. That is, appellant’s supervisor, Ms. Liero, supported that appellant was involved in a motor vehicle accident and sustained a cut, burn and abrasion on the right upper arm from an airbag. There was no indication that the cut, burn and abrasion was considered a serious condition as appellant did not lose any time from work. The first criterion is therefore satisfied.

The second criterion is also satisfied. Appellant filed the CA-1 on June 28, 2004, the day of the accident. Appellant’s supervisor signed the Form CA-1 and indicated that appellant was injured on June 28, 2004 during the performance of duty and received medical care the same day. No dispute exists as to these facts. Appellant’s supervisor further noted on the Form CA-1 that appellant did not stop work due to the June 28, 2004 employment injury as she returned to work the same day. 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.<sup>4</sup>

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

### CONCLUSION

The Board finds that the record establishes that an injury occurred in the performance of duty on June 28, 2004.

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<sup>4</sup> *Pearlene Morton*, 52 ECAB 493 (2001).

**ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated August 12, 2004 is set aside and the case is remanded for further development consistent with this opinion.<sup>5</sup>

Issued: April 5, 2005  
Washington, D.C.

Colleen Duffy Kiko  
Member

Willie T.C. Thomas  
Alternate Member

Michael E. Groom  
Alternate Member

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<sup>5</sup> The Board notes that appellant's appeal to the Board was accompanied by new evidence. The Board's jurisdiction on appeal is limited to a review of the evidence which was in the case record before the Office at the time of its final decision; *see* 20 C.F.R. § 501.2(c). Therefore, the Board is precluded from reviewing this evidence.