



explained that he had contact with bacteria in one or more areas at the work site, during physical conditioning, while using the locker room, or during physical contact with personnel or equipment during firearms training. Appellant noted that he first became aware of his condition on July 29, 2010. In a supplemental statement dated August 17, 2010, he explained that during the period July 21 to 28, 2010 he noticed a rash near an abrasion on his elbow; and on July 27, 2010 he noticed what appeared to be insect bites on his left elbow, left thigh and left knee.

In support of his claim, appellant submitted a form report from AppleCare Medical dated July 29, 2010, with an illegible signature, co-signed by a nurse, which provided findings of bites on left arm and leg, three inch circle of abscess and cellulitis on left thigh, and noted that appellant had several “areas” that are very tender. A box was checked indicating that the injury was not work related.

A medical report and discharge documents dated July 31, 2010 from the Emergency Department of the Southern Georgia Health System, signed by Dr. Brian J. Kornblatt, Board-certified in emergency medicine, provided diagnoses of left leg abscess and cellulitis of the leg and left upper arm/forearm. Blood cultures were taken which tested positive for methicillin resistant staphylococcus aureus. The history of injury stated that appellant reported small insect bites seven days ago on the left leg and left forearm, which started to swell and became irritated three days ago.

Notes from an office visit to Summit Dermatology and Laser Center, PC, signed by Dr. Lawrence G. Blasik, Jr., a dermatologist, on August 2 and 9, 2010, noted a history of injury that appellant presented with an infection which began about a week prior. Appellant’s physical examination revealed abscess of left thigh, left knee and left arm.

On October 10, 2010 OWCP advised appellant that further evidence was required to establish his claim, including a physician’s opinion supported by a medical explanation as to whether his exposure resulted in the specific infection that has been diagnosed and/or how the reported work incident caused or aggravated the claimed injury.

On September 30, 2010 appellant submitted a handwritten note, with an illegible signature, dated July 31, 2010 from AppleCare Medical. This note characterized appellant’s wound as a bite, and stated that appellant “works at FLETC (Federal Law Enforcement Training Center)” and was “exposed to staphylococcus bacteria frequently.”

Appellant also submitted a work excuse note dated August 4, 2010 from Dr. Blasik which indicated that he was not to work August 2 through 9, 2010.

In a decision dated December 21, 2010, OWCP accepted that the alleged events occurred as alleged but denied appellant’s claim on the grounds that appellant failed to establish that he was exposed to the bacteria at work which caused his diagnosed conditions.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA<sup>2</sup> has the burden to establish the essential elements of his claim including the fact that the individual is an employee of the United States

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<sup>2</sup> 5 U.S.C. §§ 8101-8193.

within the meaning of FECA, that the claim was timely filed, 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.<sup>3</sup>

To establish that an injury was sustained in the performance of duty in a claim for occupational disease, an employee must submit: (1) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; (2) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; and (3) medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the employee.<sup>4</sup>

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on whether there is a causal relationship between the employee's diagnosed condition and the compensable employment factors. The opinion of the physician must be based on a complete factual and medical background of the employee, 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 factors identified by the employee.<sup>5</sup>

### ANALYSIS

The Board finds that appellant failed to meet his burden of proof to establish that he sustained an employment-related injury.

OWCP accepted that appellant was exposed to bacteria at his work site. Appellant did not meet his burden of proof because he did not establish that any of his diagnosed conditions resulted from his work exposure to bacteria.

The July 29, 2010 medical report from AppleCare Medical stated findings of bug bites, abscess and cellulitis, but indicated by check mark that these findings were not work related. It is noted that appellant has not alleged that he sustained bug bites at work.

The July 31, 2010 discharge report from Dr. Kornblatt noted a history of insect bites, and diagnosed staph, abscess and cellulitis, but did not offer any medical explanation as to how appellant's exposure to bacteria at work would have caused either the staph, abscess or cellulitis. Again the history of injury noted that swelling occurred after bug bites, but appellant has not alleged that he sustained insect bites at work.

The handwritten July 31, 2010 medical note from Applecare Medical stated that appellant worked at the Federal Law Enforcement Training Center (FLETC), and was exposed to "staphlacosus" frequently. The Board notes that he has not alleged or established that he was exposed bacteria at work. This note provided diagnoses of abscess and cellulitis, but it did not

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<sup>3</sup> *Steven S. Saleh*, 55 ECAB 169 (2003); *Elaine Pendleton*, 40 ECAB 1143 (1989).

<sup>4</sup> *See Roy L. Humphrey*, 57 ECAB 238, 241 (2005); *Ruby I. Fish*, 46 ECAB 276, 279 (1994).

<sup>5</sup> *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

provide a medical opinion explaining how appellant's conditions were related to his work factors. This report did not provide the necessary rationalized medical opinion explaining how his exposure to bacteria at work caused appellant's diagnosed conditions.

Appellant submitted reports from Dr. Blasik which noted findings on physical examination and which stated appellant's work restrictions, but which did not link his diagnosed staph infection, abscess and cellulitis to his work conditions.

The Board finds that appellant failed to submit the necessary medical evidence to establish that his diagnosed conditions were causally related to factors of his federal employment.

Appellant may submit additional evidence, together with a written request for reconsideration, to the 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 failed to meet his burden of proof to establish that he sustained an injury in the performance of duty causally related to factors of his federal employment.

### **ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated December 21, 2010 is affirmed.

Issued: October 7, 2011  
Washington, DC

Richard J. Daschbach, Chief Judge  
Employees' Compensation Appeals Board

Alec J. Koromilas, Judge  
Employees' Compensation Appeals Board

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