



on the middle finger of his right hand was almost cut in half, stretching into his finger. Appellant's supervisor, Wanita L. Key, signed the form, certifying that the information provided by appellant on the form was true to the best of her knowledge.

In a work release form, Alexis Simons, a physician's assistant at the Laurel Regional Hospital, noted that appellant was seen at the facility on December 11, 2012 and could return to work on December 12, 2012 with the restriction of no lifting over 20 pounds.

A continuation of pay nurse report dated December 19, 2012 noted that appellant had not returned to work.

By letter to appellant dated December 20, 2012, OWCP advised him that it required additional factual and medical evidence to determine whether he was eligible for compensation benefits. Appellant was advised that he should submit evidence of a diagnosed condition and a physician's opinion as to how his injury resulted from the diagnosed condition. He did not submit any evidence.

In a letter to management dated December 12, 2012, received by OWCP on December 24, 2012, Ms. Key stated:

"In reference to [appellant's] dog bite on December 10, 2012, Animal Control has been contacted, and we are in the process of contacting the owners of the dog located at ... to get a copy of the dog's shot records."

By decision dated February 6, 2013, OWCP denied appellant's claim, finding that he failed to submit sufficient medical evidence in support of his claim that he sustained a medical diagnosis causally related to the accepted incident.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA<sup>2</sup> 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 FECA, that the claim was timely filed within the applicable time limitation period of FECA, 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.<sup>3</sup> 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.<sup>4</sup>

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

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<sup>2</sup> 5 U.S.C. §§ 8101-8193.

<sup>3</sup> *Joe D. Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

<sup>4</sup> *Victor J. Woodhams*, 41 ECAB 345 (1989).

the employment incident at the time, place and in the manner alleged.<sup>5</sup> 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.<sup>6</sup>

### ANALYSIS

The Board notes that, pursuant to Federal (FECA) Procedure Manual, Part 2 -- Claims, *Initial Development of Claims*, Chapter 2.800.6(a) (June 2011), where the condition reported is a minor one, such as a burn, laceration, insect sting or animal bite, which can be identified on visual inspection by a lay person, a case may be accepted without a medical report and no development of the case need be undertaken, if the injury was witnessed or reported promptly, and no dispute exists as to the occurrence of an injury; and no time was lost from work due to disability.<sup>7</sup> This section of the procedure manual further states that in cases of serious injury (motor vehicle accidents, stabbings, shootings, etc.) if the agency does not dispute the facts of the case, and there are no questionable circumstances, the case may be accepted for a minor condition, such as laceration, without a medical report, while simultaneously developing the case for other more serious conditions. This is true even if there is lost time due to such a serious injury.

In the instant case, the record contains a signature from appellant's supervisor, Ms. Key, on the December 12, 2012 Form CA-1, attesting that appellant's statement, that he was bitten by a dog on his right hand while reaching into a mailbox on December 10, 2012 and that he sustained a severe cut on the middle finger of his right hand as a result of this dog bite, was true to the best of her knowledge. Moreover, Ms. Key indicated in her December 12, 2012 letter to management that appellant had received a dog bite on December 10, 2012, that animal control had been contacted, and that the employing establishment was in the process of contacting the owners of the dog located at the address provided, in order to get a copy of the dog's shot records. The Board finds that this information, taken together, is sufficient to meet the standards set forth in FECA's procedure manual for accepting a simple dog bite without a medical report.<sup>8</sup> Ms. Key's signature and letter clearly indicate that appellant's dog bite, had been viewed and accepted as work related and that the bite incident alleged by appellant to have taken place on December 10, 2012 had occurred in the performance of duty.<sup>9</sup>

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<sup>5</sup> *John J. Carlone*, 41 ECAB 354 (1989).

<sup>6</sup> *Id.* For a definition of the term "injury," see 20 C.F.R. § 10.5(e)(e).

<sup>7</sup> Federal (FECA) Procedure Manual, Part 2 -- Claims, *Initial Development of Claims*, Chapter 2.800.6(a) (June 2011).

<sup>8</sup> See also *S.A.*, Docket No. 13-2152 (issued March 20, 2014); *E.S.*, Docket No. 13-2170 (issued February 26, 2014).

<sup>9</sup> *But see Gwendolyn F. Holiday*, Docket No. 94-2301 (issued October 10, 1996). OWCP accepted the claim for right ankle contusion due to dog bite. Appellant filed a recurrence of disability alleging that phlebitis, thrombophlebitis and postphlebitic syndrome were caused by the dog bite. The Board found that this recurrence claim required a rationalized medical report.

The Board finds that appellant has established that he sustained a dog bite in the performance of duty and this case should be accepted for this diagnosis and payment of medical expense.

The Board also finds that the record indicates that appellant did not return to work immediately following the dog bite. Appellant has not however alleged any specific dates of disability due to the diagnosis of dog bite. OWCP appropriately undertook further development of the claim to ascertain a diagnosis other than dog bite, but received no medical evidence from appellant to substantiate any period of disability due to the dog bite, or a diagnosis other than simple dog bite.

The only evidence appellant submitted was the report from the physician's assistant at the Laurel Regional Hospital, which stated that appellant was seen at the facility on December 11, 2012 and could return to work on December 12, 2012 with the restriction of no lifting over 20 pounds. A report from a physician's assistant does not constitute competent medical evidence from a physician.<sup>10</sup> Section 8101(2) of FECA<sup>11</sup> defines the term "physician" to include surgeons, podiatrists, dentists, clinical psychologist, optometrists, chiropractors and osteopathic practitioners within the scope of their practice as defined by state law.

Appellant did not submit any medical evidence which addressed whether he was disabled due to the dog bite or any other diagnosed condition.

Accordingly, the February 6, 2013 decision is reversed to find that the claim is accepted for dog bite and payment of appropriate medical benefits for his dog bite.

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

### **CONCLUSION**

The Board finds that appellant has established that he sustained a dog bite in the performance of duty on December 10, 2012.

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<sup>10</sup> See *George H. Clark*, 56 ECAB 162 (2004).

<sup>11</sup> 5 U.S.C. § 8101(2).

**ORDER**

**IT IS HEREBY ORDERED THAT** the February 6, 2013 decision of the Office of Workers' Compensation Programs is reversed.

Issued: June 18, 2014  
Washington, DC

Patricia Howard Fitzgerald, Acting Chief Judge  
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

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