



## **FACTUAL HISTORY**

On August 25, 2014 appellant, then a 54-year-old pediatric occupational therapist, filed a traumatic injury claim alleging that on April 11, 2014 she sustained severe and sudden onset of diarrhea and vomiting, dehydration, and fainting, which caused her to hit the right side of her head and face on the floor. Her symptoms were due to exposure to Sydney norovirus which she contracted from a pediatric patient who had the virus. The fainting caused chipped and fractured five front teeth and sutures for appellant's right ear injury. On the back of the form, the employing establishment stated that it was "unable to determine if a specific incident or work event contributed to medical condition" as she was in a hotel on vacation when her illness occurred.

In a September 8, 2014 letter, OWCP informed appellant that the evidence of record was insufficient to establish her claim. Appellant was advised as to the medical and factual evidence required and given 30 days to provide the requested information.

On September 12, 2014 OWCP received April 11, 2014 New Hanover Regional Medical Center, Wilmington, NC reports noting that appellant was treated in the emergency room that day and released on April 12, 2014. Appellant was seen by Dr. Randall N. Willard, an examining Board-certified emergency room physician, who diagnosed syncope, acute gastroenteritis, closed head injury, right earlobe laceration, and right eyelid laceration. The injury was described as occurring due to her having a syncopal episode in which she passed out, fell forward, and hit her head in the bathroom. The report stated prior to the syncopal episode appellant had an episode of diarrhea and vomiting.

In her September 12, 2014 statement, appellant detailed the chronology of her exposure to the norovirus until her injury on April 11, 2014. She stated that she was on a half-day of personal leave on April 11, 2014 when at approximately 5:00 p.m., she began to feel nauseous, and beginning at 6:00 p.m. she experienced significant diarrhea with subsequent episodes of vomiting and diarrhea. At approximately 7:15 p.m. appellant remembered getting up to go to the bathroom, lost consciousness, and woke up leaning against the bathroom counter with several broken teeth and a bleeding right eyebrow. She was taken to the emergency room by her fiancée. Initially, appellant was placed in a wheelchair, but due to her severe light-headedness and nausea she was placed on a stretcher. At the emergency room she was treated for severe dehydration and sutures were applied to her right eyebrow and right earlobe. Diagnoses included concussion/head injury, syncope, and acute gastroenteritis. Appellant related that she had been exposed to the norovirus due to her treatment of a toddler who had been diagnosed with it. She was contacted by the Naval Medical Center's Infection Control Department and Occupational Health Department regarding her illness and contact with the patient and that four of her coworkers became symptomatic with similar gastrointestinal symptoms.

In a September 17, 2014 report, Dr. Steven A. Carroll, a dentist, stated that on April 11, 2014 that appellant fell and hit the right side of her head on the toilet and tile floor due to syncope caused by dehydration from vomiting and diarrhea. Appellant was seen by him for lingual fractures of teeth numbers 7, 8, 9, broken with no tracks of teeth numbers 25 and 26 and a broken MI angle for tooth number 7. Dr. Carroll recommended crowns for teeth numbers 25 and

26 and a four surface filling for tooth number 7. He attributed these conditions to appellant's falling and hitting her head.

On October 6, 2014 OWCP received an undated statement by appellant's supervisor, Commander R. Scott Akins, an osteopath and behavioral pediatrician of professorial rank, who concurred with appellant that her gastroenteritis illness was caused by her exposure to a pediatric patient with the virus, which is highly contagious. Commander Akins supported her claim that she contracted the norovirus due to exposure to a pediatric patient with the virus. He stated that appellant saw the patient on April 8 to 10, 2014 in the patient's room and occupational therapy clinic and that she "provided hands on occupational therapy." The patient had an onset of diarrhea beginning approximately April 7, 2014 and continuing to April 14, 2014.

On October 7, 2014 OWCP received an undated report from, Dr. Mark Hammett, a reviewing Board-certified occupational medicine physician with the employing establishment. Based upon a review of the factual and medical evidence and medical history, Dr. Hammett opined that appellant's injuries on April 11, 2014 were directly caused by her exposure to a pediatric patient with the norovirus which appellant contracted. He stated that the norovirus causes persistent vomiting and diarrhea which could result in dehydration and electrolyte imbalances without proper treatment. Dr. Hammett also stated that the norovirus is very contagious and appellant was in contact with a pediatric patient who was later determined to have the norovirus. He reiterated his opinion that she sustained an occupational injury due to her exposure to the norovirus on April 8 to 10, 2014 and her subsequent symptoms of gastroenteritis on April 11, 2014.

By decision dated October 28, 2014, OWCP denied appellant's claim as it found that she failed to establish causal relationship. It found that the record failed to contain a well-rationalized medical opinion explaining how the diagnosed conditions were causally related to the accepted employment incident/factor.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA<sup>2</sup> 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 FECA; that the claim was filed within the applicable time limitation; that an injury was sustained while 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 on 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.<sup>5</sup>

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<sup>2</sup> *Id.*

<sup>3</sup> *C.S.*, Docket No. 08-1585 (issued March 3, 2009); *Bonnie A. Contreras*, 57 ECAB 364 (2006).

<sup>4</sup> *S.P.*, 59 ECAB 184 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

<sup>5</sup> *B.F.*, Docket No. 09-60 (issued March 17, 2009); *Bonnie A. Contreras*, *supra* note 3.

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.<sup>6</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>7</sup>

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence.<sup>8</sup> 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.<sup>9</sup> 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>10</sup>

Simple exposure to a workplace hazard, such as an infectious agent, does not constitute a work-related injury entitling an employee to medical treatment under FECA. The employing establishment therefore should not use a Form CA-16 to authorize medical testing for an employee who has merely been exposed to a workplace hazard, unless the employee has sustained an identifiable injury or medical condition as a result of that exposure.<sup>11</sup>

### ANALYSIS

OWCP accepted that appellant was in the performance of duty when she was exposed to a patient with norovirus. It denied her claim on the basis that the medical evidence failed to establish a causal relationship between the accepted work factor and her diagnosed medical conditions. The Board finds that appellant failed to meet her burden of proof in establishing her claim.

In support of her claim appellant submitted a report from Dr. Hammett, a September 17, 2014 report by Dr. Carroll, a dentist, and April 11, 2014 emergency department records from New Hanover Regional Medical Center where she was treated by Dr. Willard. Dr. Willard provided examination findings, a history of the injury and diagnosed syncope, acute gastroenteritis, closed head injury, right earlobe laceration, and right eyelid laceration. He related that appellant reported falling and hitting her head due to syncopal episode brought on by vomiting and diarrhea. Dr. Willard did not, however, provide an opinion as to the cause of the

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<sup>6</sup> *D.B.*, 58 ECAB 464 (2007); *David Apgar*, 57 ECAB 137 (2005).

<sup>7</sup> *C.B.*, Docket No. 08-1583 (issued December 9, 2008); *D.G.*, 59 ECAB 734 (2008); *Bonnie A. Contreras*, *supra* note 3.

<sup>8</sup> *Y.J.*, Docket No. 08-1167 (issued October 7, 2008); *A.D.*, 58 ECAB 149 (2006); *D'Wayne Avila*, 57 ECAB 642 (2006).

<sup>9</sup> *J.J.*, Docket No. 09-27 (issued February 10, 2009); *Michael S. Mina*, 57 ECAB 379 (2006).

<sup>10</sup> *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

<sup>11</sup> 20 C.F.R. § 10.303(a).

gastroenteritis. Dr. Carroll diagnosed teeth fractures as the result of appellant falling and hitting the right side of her head on the toilet and tile floor due to syncope. He offered no opinion as to the cause of the vomiting and diarrhea which was the cause of her dehydration and resulting syncope. Medical evidence which does not offer any opinion regarding the cause of an employee's condition is of limited probative value.<sup>12</sup> Thus, the reports from Drs. Willard and Carroll are insufficient to support a causal relationship between the diagnosed conditions and the accepted employment factor of exposure to norovirus.

The record also contains an undated report from Dr. Hammett which concluded that there was a relationship between appellant's diagnosed April 11, 2014 injuries and her exposure to a pediatric patient with norovirus. On October 7, 2014 OWCP received an undated report from Dr. Hammett in which he noted that the norovirus causes persistent vomiting and diarrhea which could result in dehydration and electrolyte imbalances without proper treatment. Dr. Hammett also stated that the norovirus is very contagious and appellant was in contact with a pediatric patient who was later determined to have contracted the norovirus. Based on his review of the medical and factual evidence and medical history, he opined that her gastroenteritis and subsequent injuries were a direct result of her exposure to the norovirus, which he observed was very contagious. Dr. Hammett has not provided any rationale explaining how appellant's diagnosed medical conditions had been caused or aggravated by the accepted work exposure. While he opined that the diagnosed condition was caused by appellant's exposure to norovirus, he failed to adequately explain how the accepted work exposure caused or contributed to the diagnosed condition other than offering a generalized opinion that norovirus is very contagious. As he failed to provide a sufficient explanation as to the mechanism of injury, Dr. Hammett's general statement that appellant sustained a work-related injury is of limited probative value.<sup>13</sup> In addition, he did not physically examine appellant and his conclusion is based solely on his review of the medical history and medical and available factual evidence. Thus, Dr. Hammett's reports are insufficient to support appellant's burden of proof.

The Board finds that there is insufficient rationalized medical evidence of record to establish that appellant sustained severe and sudden onset of diarrhea and vomiting, dehydration, and fainting, which caused her to hit the right side of her head and face on the floor due to exposure to Sydney norovirus related to the accepted work exposure. Appellant did not meet her burden of proof.

On appeal appellant argues that she has established her claim by the submission of reports from Dr. Hammett. As discussed above, the reports from Dr. Hammett are insufficiently rationalized to establish that the injuries she sustained were causally related to the accepted work factor.

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.

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<sup>12</sup> *C.B.*, Docket No. 09-2027 (issued May 12, 2010); *A.F.*, 59 ECAB 714 (12, 2008); *Michael E. Smith*, 50 ECAB 313 (1999).

<sup>13</sup> *S.W.*, Docket 08-2538 (issued May 21, 2009); *Cecelia M. Corley*, 56 ECAB 662 (2005).

**CONCLUSION**

The Board finds that appellant has not met her burden of proof to establish that she sustained an injury on April 11, 2014 in the performance of duty.

**ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated October 28, 2014 is affirmed.<sup>14</sup>

Issued: March 21, 2016  
Washington, DC

Patricia H. Fitzgerald, Deputy Chief Judge  
Employees' Compensation Appeals Board

Alec J. Koromilas, Alternate Judge  
Employees' Compensation Appeals Board

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<sup>14</sup> James A. Haynes, Alternate Judge, participated in the preparation of this decision but was no longer a member of the Board effective November 16, 2015.