

**United States Department of Labor  
Employees' Compensation Appeals Board**

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**R.A., Appellant**

**and**

**U.S. POSTAL SERVICE, POST OFFICE,  
West Hempstead, NY, Employer**

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**Docket No. 16-0629  
Issued: October 19, 2016**

*Appearances:*  
*William Bothwell*, for the appellant<sup>1</sup>  
*No Appearance* for the Director

Oral Argument August 25, 2016

**DECISION AND ORDER**

Before:

CHRISTOPHER J. GODFREY, Chief Judge  
COLLEEN DUFFY KIKO, Judge  
VALERIE D. EVANS-HARRELL, Alternate Judge

**JURISDICTION**

On February 5, 2016 appellant, through his representative, filed a timely appeal from a November 12, 2015 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act<sup>2</sup> (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

**ISSUE**

The issue is whether appellant's fall on March 3, 2015 occurred in the performance of duty.

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<sup>1</sup> In all cases in which a representative has been authorized in a matter before the Board, no claim for a fee for legal or other service performed on appeal before the Board is valid unless approved by the Board. 20 C.F.R. § 501.9(e). No contract for a stipulated fee or on a contingent fee basis will be approved by the Board. *Id.* An attorney or representative's collection of a fee without the Board's approval may constitute a misdemeanor, subject to fine or imprisonment for up to one year or both. *Id.*; see also 18 U.S.C. § 292. Demands for payment of fees to a representative, prior to approval by the Board, may be reported to appropriate authorities for investigation.

<sup>2</sup> 5 U.S.C. § 8101 *et seq.*

## **FACTUAL HISTORY**

On March 11, 2015 appellant, then a 51-year-old letter carrier, filed a traumatic injury claim (Form CA-1) alleging that on March 3, 2015 he “just fainted.” The reverse of the claim form indicated that he stopped working on March 3, 2015. Appellant submitted a note dated March 3, 2015 from Dr. Bryan Tran, Board-certified in emergency medicine, reporting that appellant was treated at the emergency room on March 3, 2015 and could return to work on March 6, 2015. By report dated March 4, 2015, Dr. Daniel Reinharth, a Board-certified internist, diagnosed syncope and collapse, hyperglycemia, and concussion.

By letter dated March 18, 2015, OWCP requested that appellant submit additional factual and medical evidence to support the claim for compensation. In a report dated March 6, 2015, Dr. David Podwall, a Board-certified neurologist, reported that appellant had a syncopal episode on March 3, 2015, while standing outside his truck, with no preceding symptoms. He indicated that appellant hit his head and had been having headaches since that time. Dr. Podwall noted a past medical history that included anxiety, asthmatic bronchitis, hyperglycemia, hypertension, and mitral valve prolapse. He also listed syncope and collapse under his medical history without further explanation. Dr. Podwall wrote that appellant “while in his usual capacity as a postal worker had an episode of unprovoked syncope. He was evaluated in the hospital and was released. Dr. Podwall’s neurologic examination is nonfocal. As far as neurological causes of syncope, one would be a potential seizure though no stigmata of seizure were recorded. Less likely would be a stroke as he had no focality.”

In a statement dated March 27, 2015, appellant indicated that he was delivering mail at approximately 10:30 a.m. on March 3, 2015, and while he was standing at the back door of his truck he fainted and could not remember anything until he was in an ambulance. He asserted that he did not have a history of fainting or seizures.

Appellant submitted a report dated March 6, 2015 from Dr. Marco Papaleo, a Board-certified cardiologist, who reported a medical history of asthma, hypertension, hyperlipidemia, probably borderline diabetes, active smoking, and family history of heart disease. Dr. Papaleo indicated that appellant’s reported syncope was his first episode and it was not preceded by symptoms. He provided results on examination, noting that appellant had a murmur in the mitral area, but it was not significant and most likely was not the cause of the syncope.

In a report dated March 19, 2015, Dr. Antonio Moretta, a Board-certified internist, provided a history of injury and results on examination. He wrote that, although the vast majority of syncope are vasovagal, especially in the absence of structural heart disease, appellant’s presentation was concerning. Dr. Moretta indicated that appellant should have an ischemic evaluation to assess valvular abnormalities. By report dated March 27, 2015, Dr. Papaleo reported appellant’s cardiac positron emission tomography (PET) scan was negative for ischemia and an echocardiogram showed a structurally normal heart.

By decision dated April 23, 2015, OWCP denied the claim for compensation. It found that the evidence showed the fall on March 3, 2015 was an idiopathic fall from a nonoccupational pathology. Thus, appellant did not sustain an injury in the performance of duty.

On May 22, 2015 appellant requested an oral hearing before an OWCP hearing representative. A hearing was held on October 5, 2015. In a report dated May 14, 2015, Dr. Podwall indicated that an April 5, 2015 brain magnetic resonance imaging (MRI) scan was negative, as was an electroencephalogram (EEG). He indicated that appellant's headaches and reported loss of smell were causally related to hitting his head in the March 3, 2015 fall.

Appellant submitted an October 26, 2015 report from Dr. Reinharth, who indicated that he had treated appellant for conditions that included hypertension and hyperlipidemia. Dr. Reinharth opined, "To my knowledge his preexisting condition did not cause him to faint on [March 3, 2015] nor have I known him to faint at any other time. In addition, it is my understanding that his head injury was consistent with him hitting his head on a mail truck."

By decision dated November 12, 2015, the hearing representative affirmed the April 23, 2015 decision. He found that appellant's medical history included hypertension and "past syncope (reported by Dr. Podwall)" as well as arrhythmia and mitral insufficiency. According to the hearing representative, the treating physicians did not explain whether any positive findings on diagnostic tests caused the claimant to faint, and Dr. Reinharth's opinion that preexisting conditions were not causative was not supported by rationale.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA has the burden of proof to establish the essential elements of his or her claim including the fact that the individual is an employee of the United States within the meaning 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>

It is a well-settled principle of workers' compensation law, and the Board has so held, that an injury resulting from an idiopathic fall -- where a personal, nonoccupational pathology causes an employee to collapse and to suffer injury upon striking the immediate supporting surface, and there is no intervention or contribution by any hazard or special condition of employment -- is not within coverage of FECA.<sup>4</sup> Such an injury does not arise out of a risk connected with the employment and is, therefore, not compensable. However, as the Board has made equally clear, the fact that the cause of a particular fall cannot be ascertained or that the reason it occurred cannot be explained, does not establish that it was due to an idiopathic condition.<sup>5</sup>

This follows from the general rule that an injury occurring while in the performance of duty is compensable unless the injury is established to be within an exception to such general rule.<sup>6</sup> OWCP has the burden of proof to submit medical evidence showing the existence of a

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<sup>3</sup> *Steven S. Saleh*, 55 ECAB 169 (2003).

<sup>4</sup> *Carol A. Lyles*, 57 ECAB (2005).

<sup>5</sup> *See M.M.*, Docket No. 08-1510 (issued November 25, 2008).

<sup>6</sup> *Dora Ward*, 43 ECAB 767 (1992).

personal, nonoccupational pathology if it chooses to make a finding that a given fall is idiopathic in nature.<sup>7</sup> If the record does not establish that the particular fall was due to an idiopathic condition, it must be considered as merely an unexplained fall, one which is distinguishable from a fall in which it is definitely proved that a physical condition preexisted and caused the fall.<sup>8</sup>

### ANALYSIS

In the present case, appellant alleged that he fell while in the performance of duty on March 3, 2015. OWCP does not contest that appellant fell while performing his job duties as a mail carrier. The evidence indicated that he was on his mail route near his employing establishment vehicle when he lost consciousness and fell.

OWCP found that appellant had not established that the incident was an unexplained fall. The general rule, as discussed above, is that a fall while in the performance of duty is an unexplained fall, unless the evidence establishes that the fall was due to a personal, nonoccupational pathology. It is not appellant that must show it was an unexplained fall, but OWCP that must show it was an idiopathic fall that was caused by a nonemployment-related condition.

The Board finds that the record in this case does not support a finding that the fall was an idiopathic fall due to a personal, nonoccupational pathology. There is no probative evidence as to the cause of the loss of consciousness on March 3, 2015. Dr. Podwall referred to an “unprovoked syncope” with no preceding symptoms in his March 6, 2015 report. While the hearing representative refers to appellant as having a prior syncope, per Dr. Podwall, it is not clear from his reports that appellant had any prior history of syncopal episodes. Dr. Podwall lists syncope under his medical history, but he may have been referring to the March 3, 2015 incident, and Dr. Papaleo specifically indicated in his March 6, 2015 report that this was the first syncopal episode. Moreover, having a medical history of preexisting conditions does not in itself establish that a fall was idiopathic.<sup>9</sup>

The only physician providing an opinion regarding the cause of the fall was Dr. Reinharth in his October 26, 2015 report. Dr. Reinharth opined that a preexisting condition did not cause the fall on March 3, 2015.

The Board finds the evidence of record does not establish that the fall on March 3, 2015 was an idiopathic fall. As noted above, if the evidence does not show that the fall was idiopathic, it is a compensable unexplained fall. OWCP has not established the fall was idiopathic in this case. On return of the case record, it should determine the nature and extent of any injury or disability resulting from the fall on March 3, 2015. After such further development as OWCP deems necessary, it should issue a *de novo* decision.

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<sup>7</sup> *P.P.*, Docket No. 15-0522 (issued June 1, 2016); *see also Jennifer Atkerson*, 55 ECAB 317 (2004).

<sup>8</sup> *John R. Black*, 49 ECAB 624 (1998); *Judy Bryant*, 40 ECAB 207 (1988).

<sup>9</sup> *L.N.*, Docket No. 06-2053 (issued April 9, 2007).

**CONCLUSION**

The Board finds that the March 3, 2015 fall was an unexplained fall that occurred in the performance of duty. The case is remanded to properly determine the nature and extent of any injury or disability resulting from the unexplained fall.

**ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated November 12, 2015 is reversed and the case remanded to OWCP for further action consistent with this decision of the Board.

Issued: October 19, 2016  
Washington, DC

Christopher J. Godfrey, Chief Judge  
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge  
Employees' Compensation Appeals Board