

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

L.F., Appellant

and

**DEPARTMENT OF HOMELAND SECURITY,
FEMA EMERGENCY PREPAREDNESS &
RESPONSE, Atlanta, GA Employer**

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**Docket No. 17-1511
Issued: November 28, 2017**

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

CHRISTOPHER J. GODFREY, Chief Judge
PATRICIA H. FITZGERALD, Deputy Chief Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On June 28, 2017 appellant filed a timely appeal from a May 24, 2017 decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act¹ (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.²

ISSUE

The issue is whether appellant met his burden of proof to establish an injury causally related to the accepted March 16, 2017 employment incident.

¹ 5 U.S.C. § 8101 *et seq.*

² Appellant submitted additional evidence after OWCP rendered its May 24, 2017 decision. The Board's jurisdiction is limited to reviewing the evidence that was before OWCP at the time of its final decision. Therefore, this additional evidence cannot be considered by the Board for the first time on appeal. 20 C.F.R. § 501.2(c)(1).

FACTUAL HISTORY

On April 11, 2017 appellant, then a 62-year-old civil engineer, filed a traumatic injury claim (Form CA-1) alleging that on March 16, 2017, while driving back to an office, he felt dizzy, with headaches and uncontrolled blood pressure.³ He stopped work on March 16, 2017 and returned to work on March 17, 2017.

In a diagnostic report dated March 17, 2017, Dr. James Jen-Je Hsiao, a Board-certified neuroradiologist, examined the results of a computerized tomography (CT) scan of appellant's brain without contrast. He reported an impression of a normal CT scan, with no mass, hemorrhage, or evidence for acute infarction.

In another diagnostic report of the same date, Dr. Amir Paydar, a neuroradiologist, examined the results of an x-ray of appellant's chest. He reported an impression of a normal chest x-ray.

By letter dated April 18, 2017, OWCP advised appellant that the evidence of record was insufficient to support his claim. It noted that it had not received sufficient factual evidence to establish his claim. OWCP further noted that appellant had not submitted medical evidence containing a diagnosis related to his claim, as the March 17, 2017 reports demonstrated normal findings. It afforded him 30 days to submit additional evidence and respond to its inquiries as to the factual aspects of his case. Appellant did not respond.

By decision dated May 23, 2017, OWCP denied appellant's claim. It found that he had not submitted sufficient evidence to establish that the events alleged to have caused his injury occurred as described, because he failed to provide a description of which job factors he alleged had caused his injury. OWCP also found that appellant had not submitted a diagnosis in connection with his claimed injury.

By decision dated May 24, 2017, OWCP issued a decision superseding the May 23, 2017 decision. It found that appellant had submitted a sufficient description of the event alleged to have caused his injury, that of driving to an office, and as such, the factual component of fact of injury was established. However, OWCP denied his claim finding that he had not submitted any medical evidence containing a diagnosis in connection with his claimed injury. It, therefore, concluded that he had not established an injury as defined by FECA.

LEGAL PRECEDENT

An employee seeking benefits under FECA⁴ 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 of FECA, that the claim was timely filed within the

³ The alleged injury occurred at 3:00 p.m., appellant's duty hours were from 8:00 a.m. to 5:00 p.m. The record reflects that he was on temporary duty on the date of the alleged injury as his reporting duty station was in Atlanta, GA and the incident occurred in Altomonte Springs, FL.

⁴ *Supra* at note 1.

applicable time limitation period of FECA, that an injury⁵ 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.⁶

While on temporary-duty assignment, an employee is covered by FECA 24 hours a day with respect to any injury that results from activities incidental to the temporary assignment. The fact that an employee was on a special mission or in travel status during the time the condition manifested itself does not raise an inference that the condition was causally related to the incidents of employment.⁷

The claimant has the burden of proof to establish by the weight of reliable, probative, and substantial evidence that the condition for which compensation is sought is causally related to a specific employment incident or to specific conditions of employment.⁸ An award of compensation may not be based on appellant's belief of causal relationship. Neither the mere fact that a disease or condition manifests itself during a period of employment nor the belief that the disease or condition was caused or aggravated by employment factors or incidents is sufficient to establish a causal relationship.⁹

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence.¹⁰ 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 compensable employment factors.¹¹ 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.¹²

⁵ OWCP's regulations define a traumatic injury as a condition of the body caused by a specific event or incident, or series of events or incidents, within a single workday or shift. Such condition must be caused by external force, including stress or strain, which is identifiable as to time and place of occurrence and member or function of the body affected. 20 C.F.R. § 10.5(ee).

⁶ *T.H.*, 59 ECAB 388, 393 (2008); *see Steven S. Saleh*, 55 ECAB 169, 171-72 (2003); *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

⁷ *A.F.*, Docket No. 14-1392 (issued October 21, 2014).

⁸ *Roma A. Mortenson-Kindschi*, 57 ECAB 418, 428 n.37 (2006); *Katherine J. Friday*, 47 ECAB 591, 594 (1996).

⁹ *P.K.*, Docket No. 08-2551 (issued June 2, 2009); *Dennis M. Mascarenas*, 49 ECAB 215, 218 (1997).

¹⁰ *Y.J.*, Docket No. 08-1167 (issued October 7, 2008); *A.D.*, 58 ECAB 149, 155-56 (2006); *D'Wayne Avila*, 57 ECAB 642, 649 (2006).

¹¹ *I.J.*, 59 ECAB 408, 415 (2008); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

¹² *J.J.*, Docket No. 09-0027 (issued February 10, 2009); *Michael S. Mina*, 57 ECAB 379, 384 (2006).

ANALYSIS

On April 11, 2017 appellant filed a claim alleging that he sustained dizziness, headaches, and uncontrolled blood pressure as a result of driving back to an office in Altamonte Springs, FL on March 16, 2017 at 3:00 p.m. By decision dated May 24, 2017, OWCP denied his claim finding that he had not submitted any medical evidence from a qualified physician containing a diagnosis related to his claim.

The Board finds that appellant did not meet his burden of proof to establish an injury causally related to the accepted March 16, 2017 employment incident because he did not submit any medical evidence from a physician containing a medical diagnosis causally related to his claim.¹³ Appellant submitted two diagnostic reports dated March 17, 2017 from Drs. Hsiao and Paydar, which contained assessments of a normal CT scan of the brain and a normal chest x-ray, respectively. As noted, part of appellant's burden of proof includes the submission of rationalized medical opinion evidence, based on a complete factual and medical background, supporting a causal relationship between the employment incident and a diagnosed condition.¹⁴ The record contains no such medical evidence. The reports submitted do not contain any opinion on causal relationship. The Board has long held that medical evidence that does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship.¹⁵

As such, the Board finds that there is no medical evidence of record establishing an injury causally related to the accepted employment incident.

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 not met his burden of proof to establish an injury causally related to the accepted March 16, 2017 employment incident.

¹³ See *W.W.*, Docket No. 09-2252 (issued June 4, 2010).

¹⁴ *Supra* note 11.

¹⁵ *M.W.*, Docket No. 17-0097 (issued April 11, 2017).

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated May 24, 2017 is affirmed.

Issued: November 28, 2017
Washington, DC

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

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

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