

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

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<b>H.B., Appellant</b>	)	
	)	
<b>and</b>	)	<b>Docket No. 18-0278</b>
	)	<b>Issued: June 20, 2018</b>
<b>DEPARTMENT OF AGRICULTURE, FOREST</b>	)	
<b>SERVICE, Wilmington, IL, Employer</b>	)	
_____	)	

*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 November 20, 2017 appellant filed a timely appeal from an August 29, 2017 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act<sup>1</sup> (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of the claim.<sup>2</sup>

**ISSUE**

The issue is whether appellant has met her burden of proof to establish an injury in the performance of duty on July 17, 2017, as alleged.

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<sup>1</sup> 5 U.S.C. § 8101 *et seq.*

<sup>2</sup> The record on appeal includes evidence received after OWCP issued its August 29, 2017 decision. The Board's review of a case is limited to the evidence in the case record that was before OWCP at the time of its final decision. 20 C.F.R. § 501.2(c)(1). Therefore, the Board is precluded from reviewing this additional evidence for the first time on appeal. *Id.*

## **FACTUAL HISTORY**

On July 19, 2017 appellant, then a 17-year-old youth conservation corps employee, filed a traumatic injury claim (Form CA-1) alleging an injury in the performance of duty on July 17, 2017. She stated that she started to feel weak on July 17, 2017 while raking gravel during the performance of her federal employment duties. Appellant continued to feel weak and felt nauseas while riding in an employing establishment vehicle to the next work location. Upon exiting the vehicle, she passed out. Appellant's supervisor noted that, when appellant collapsed, she fell into the arms of a nearby employee, not hitting the ground. Appellant was taken to the hospital for examination. No evidence was submitted in support of her claim.

By development letter dated July 27, 2017, OWCP notified appellant of the deficiencies of her claim and afforded her 30 days to submit additional factual and medical evidence. Appellant was also provided a questionnaire for her completion regarding the factual circumstances of her injury. She did not respond and no further evidence was received.

By decision dated August 29, 2017, OWCP denied appellant's traumatic injury claim. It found that she had failed to respond to its July 27, 2017 development questionnaire and failed to describe the July 17, 2017 incident in sufficient detail to establish that the employment incident occurred as alleged. OWCP further found that appellant failed to submit medical evidence containing a medical diagnosis in connection with the claimed injury or event.

## **LEGAL PRECEDENT**

OWCP defines 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."<sup>3</sup> To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it must first be determined whether fact of injury has been established. First, the employee must submit sufficient evidence to establish that she actually experienced the employment incident at the time, place, and in the manner alleged.<sup>4</sup> Second, the employee must submit sufficient evidence, generally only in the form medical evidence, to establish that the employment incident caused a personal injury.<sup>5</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>6</sup> Such an injury does not arise out of a risk connected with the employment and is, therefore, not compensable. The Board has made equally clear, the fact that

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<sup>3</sup> 20 C.F.R. § 10.5(ee).

<sup>4</sup> *John J. Carlone*, 41 ECAB 354 (1989).

<sup>5</sup> *J.Z.*, 58 ECAB 529 (2007).

<sup>6</sup> *See Carol A. Lyles*, 57 ECAB 265 (2005).

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.

This follows from the general rule that an injury occurring on the industrial premises during working hours is compensable unless the injury is established to be within an exception to such general rule.<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

The Board finds that appellant has not met her burden of proof to establish an injury in the performance of duty on July 17, 2017, as alleged.

Appellant has not provided sufficient detail to establish that a traumatic incident occurred in the performance of duty as alleged.<sup>9</sup> On her Form CA-1, she indicated that she had felt weak while in the performance of duty, subsequently experienced nausea in an employing establishment vehicle, and then collapsed while exiting the vehicle. While appellant's supervisor corroborated appellant's account of her collapse, the description alone is vague and does not relate with specificity the circumstances of the injury.<sup>10</sup> Specifically, it is unknown whether appellant had suffered similar disability or symptoms before the claimed injury or whether she sustained any other injury, either on or off duty. OWCP could, therefore, not determine, based upon evidence of record, whether her fall was idiopathic, or remained unexplained.<sup>11</sup>

Appellant was provided an opportunity to submit evidence to establish how her alleged injury occurred on July 27, 201. By letter dated July 27, 2017, OWCP requested that she describe the factual circumstances of her injury and provided her with a factual development questionnaire for completion. Appellant did not respond to the questionnaire and failed to provide a narrative statement detailing the traumatic incident prior to the issuance of OWCP's denial of her claim on August 29, 2017. The only explanation she provided pertaining to the alleged July 17, 2017 traumatic incident is a generalized and vague statement noted on her Form CA-1. By failing to describe the employment incident and circumstances surrounding her alleged injury, appellant has

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<sup>7</sup> *Dora J. Ward*, 43 ECAB 767, 769 (1992); *Fay Leiter*, 35 ECAB 176, 182 (1983).

<sup>8</sup> *John R. Black*, 49 ECAB 624 (1998); *Judy Bryant*, 40 ECAB 207 (1988); *Martha G. List*, 26 ECAB 200 (1974).

<sup>9</sup> *Dennis M. Mascarenas*, 49 ECAB 215, 218 (1997).

<sup>10</sup> *See J.H.*, Docket No. 18-0026 (issued April 13, 2018); *see also T.N.*, Docket No. 16-1099 (issued December 16, 2016).

<sup>11</sup> *See supra* note 8.

not established that the traumatic injury occurred in the performance of duty, as alleged.<sup>12</sup> Thus, the Board finds that she has not met her burden of proof.<sup>13</sup>

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 her burden of proof to establish an injury in the performance of duty on July 17, 2017, as alleged.

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<sup>12</sup> *Id.*

<sup>13</sup> The Board notes that appellant was transported to the hospital. OWCP, however, did not adjudicate the issue of her incurred medical expenses or whether emergency or unusual circumstances were present. Ordinarily, the employing establishment will authorize treatment of a job-related injury by providing the employee a properly executed (Form CA-16) within four hours. In this case, the record does not contain a Form CA-16 or any other authorization from OWCP for medical treatment. However, under section 8103 of FECA, OWCP has broad discretionary authority to approve unauthorized medical care which it finds necessary and reasonable in cases of emergency or other unusual circumstances. 5 U.S.C. § 8103; 20 C.F.R. § 10.304. *See L.B.*, Docket No. 10-0469 (issued June 2, 2010); *see also* Federal (FECA) Procedure Manual, Part 3 -- Medical, *Authorizing Examination and Treatment*, Chapter 3.300.3a.(3) (February 2012).

**ORDER**

**IT IS HEREBY ORDERED THAT** the August 29, 2017 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: June 20, 2018  
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