

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

D.S., Appellant)
and) Docket No. 19-1641
U.S. POSTAL SERVICE, PORTLAND)
PROCESSING & DISTRIBUTION CENTER,)
Portland, OR, Employer)
Issued: July 16, 2020

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

Case Submitted on the Record

DECISION AND ORDER

Before:
JANICE B. ASKIN, Judge
PATRICIA H. FITZGERALD, Alternate Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On July 29, 2019 appellant filed a timely appeal from a July 9, 2019 merit 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

¹ 5 U.S.C. § 8101 *et seq.*

² The Board notes that, following the July 9, 2019 decision, OWCP received additional evidence. However, the Board's *Rules of Procedure* provides: "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. Evidence not before OWCP will not be considered by the Board for the first time on appeal." 20 C.F.R. § 501.2(c)(1). Thus, the Board is precluded from reviewing this additional evidence for the first time on appeal. *Id.*

ISSUE

The issue is whether appellant has met his burden of proof to establish a medical condition causally related to the accepted May 19, 2019 employment incident.

FACTUAL HISTORY

On May 20, 2019 appellant, then a 63-year-old mail handler assistant, filed a traumatic injury claim (Form CA-1) alleging that on May 19, 2019 he sustained a head trauma after he became dehydrated and fell while in the performance of duty. On the reverse side of the Form CA-1, his immediate supervisor indicated that appellant was in the performance of duty at the time of the claimed injury. Appellant did not stop work.

In an undated accident/injury investigation report, appellant's immediate supervisor indicated that on May 19, 2019 appellant reported that he felt faint when appellant went to the bathroom, fell down, and struck his head on the floor. Appellant further reported that he got up and starting walking towards the front of the building and fell again. The supervisor indicated that, when he arrived at the location where appellant was on the floor, appellant was conscious, speaking clearly, sweating, and had a small pool of blood under his head. He called 911 and appellant was transported to the hospital. The supervisor noted that appellant reported being dehydrated, causing appellant to faint and sustain a head wound.

In an employing establishment PS Form 1769/301 accident report dated May 19, 2019, appellant's immediate supervisor indicated that appellant reported that on May 19, 2019 at 4:45 a.m. he fainted and fell while walking out of the bathroom, striking his head on the floor. He noted that appellant's skull/head was bleeding and cut open. The supervisor indicated that fatigue and distraction may have been factors in the incident.

Appellant also submitted an unsigned May 19, 2019 administrative document concerning his treatment in an emergency department that day. The document listed his provider as Dr. Stefan Craciun, Board-certified in emergency medicine.

In a development letter dated June 5, 2019, OWCP notified appellant of the type of evidence needed to establish his claim for FECA benefits. It explained that the evidence submitted did not contain a medical diagnosis causally related to the reported May 19, 2019 incident. OWCP requested that appellant provide a narrative report from his physician providing a history of injury, detailed description of findings, a diagnosis, and an opinion supported by medical rationale explaining how the employment incident caused or aggravated a medical condition. It afforded him 30 days to submit the requested evidence.

In response, appellant submitted nine illegible pages from a document or documents of an unclear nature.

By decision dated July 9, 2019, OWCP accepted that the May 19, 2019 employment incident occurred as alleged. However, it denied appellant's traumatic injury claim, finding that he had not submitted any evidence "containing a medical diagnosis in connection with the injury

and/or event(s).” OWCP concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

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 of FECA, that the claim was timely filed within the applicable time limitation period of FECA,³ 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.⁴ 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.⁵

To determine if an employee has sustained a traumatic injury in the performance of duty, OWCP begins with an analysis of whether fact of injury has been established. Fact of injury consists of two components that must be considered in conjunction with one another. The first component is whether the employee actually experienced the employment incident that allegedly occurred.⁶ The second component is whether the employment incident caused a personal injury.⁷

Rationalized medical opinion evidence is required to establish causal relationship. The opinion of the physician must be based on a complete factual and medical background, 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 incident.⁸ 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 causal relationship.⁹

Pursuant to OWCP’s procedures, no development of a claim is necessary where the condition reported is a minor one which can be identified on visual inspection by a lay person (e.g.,

³ *S.B.*, Docket No. 17-1779 (issued February 7, 2018); *J.P.*, 59 ECAB 178 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

⁴ *J.M.*, Docket No. 17-0284 (issued February 7, 2018); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

⁵ *K.M.*, Docket No. 15-1660 (issued September 16, 2016); *L.M.*, Docket No. 13-1402 (issued February 7, 2014); *Delores C. Ellyett*, 41 ECAB 992 (1990).

⁶ *B.P.*, Docket No. 16-1549 (issued January 18, 2017); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁷ *M.H.*, Docket No. 18-1737 (issued March 13, 2019); *John J. Caralone*, 41 ECAB 354 (1989).

⁸ *S.S.*, Docket No. 18-1488 (issued March 11 2019).

⁹ *J.L.*, Docket No. 18-1804 (issued April 12, 2019).

burn, laceration, insect sting, or animal bite).¹⁰ No medical report is required to establish a minor condition such as a laceration.¹¹

ANALYSIS

The Board finds that appellant has met his burden of proof to establish a head laceration causally related to the accepted May 19, 2019 employment incident.

Appellant noted on his claim form that he suffered head trauma as a result of his fall. There were no questionable circumstances as the employing establishment confirmed that the incident had occurred in the performance of duty as alleged. In an undated accident/injury investigation report, appellant's immediate supervisor indicated that, when he arrived at the location where appellant had fallen, appellant had a small pool of blood under his head. He then called 911 and appellant was transported to the hospital. In an employing establishment PS Form 1769/301 accident report dated May 19, 2019, appellant's immediate supervisor indicated that appellant had fallen and his skull/head was bleeding and cut open. As the evidence of record establishes that appellant's fall resulted in a visible injury, the Board finds that appellant has met his burden of proof to establish a head laceration causally related to the accepted employment incident.¹²

The Board further finds, however, that appellant has not met his burden of proof to establish other medical conditions causally related to the accepted May 19, 2019 employment incident.

Appellant submitted an unsigned May 19, 2019 administrative document concerning his treatment in an emergency room on that day. The document listed appellant's provider as Dr. Craciun. The Board notes that there is no indication that this unsigned administrative document was completed by a physician within the meaning of FECA and, therefore, it has no probative value with respect to establishing causal relationship between a diagnosed medical condition and the May 19, 2019 employment incident.¹³

Appellant also submitted illegible pages from a document or documents. The Board is unable to determine whether this submission constitutes medical evidence as it is not established that the author is a physician.¹⁴ Therefore, this evidence is of no probative value and is insufficient to meet appellant's burden of proof.

As there is no medical evidence of record establishing other medical conditions causally related to the accepted May 19, 2019 employment incident, the Board finds that appellant has not met his burden of proof.

¹⁰ See Federal (FECA) Procedure Manual, Part 2 -- Claims, *Initial Development of Claims*, Chapter 2.800.6(a) (June 2011).

¹¹ *Id.* at Chapter 2.800.6.

¹² *Id.*

¹³ C.B., Docket No. 09-2027 (issued May 12, 2010).

¹⁴ See *D.D.*, 57 ECAB 734 (2006); *Merton J. Sills*, 39 ECAB 572, 575 (1988).

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.

As appellant has established a head laceration as an accepted employment-related condition, the Board will reverse in part the July 9, 2019 decision and remand the case for payment of medical costs and wage-loss compensation for disability, if any.

CONCLUSION

The Board finds that appellant has met his burden of proof to establish a head laceration causally related to the accepted May 19, 2019 employment incident. The Board further finds that he has not met his burden of proof to establish other medical conditions causally related to the accepted May 19, 2019 employment incident.

ORDER

IT IS HEREBY ORDERED THAT the July 9, 2019 decision of the Office of Workers' Compensation Programs is affirmed in part and reversed in part and the case is remanded for further proceedings consistent with this decision of the Board.

Issued: July 16, 2020
Washington, DC

Janice B. Askin, Judge
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Alternate Judge
Employees' Compensation Appeals Board

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