



## **FACTUAL HISTORY**

On May 22, 2019 appellant, then a 33-year-old city letter carrier, filed a traumatic injury claim (Form CA-1) alleging that on May 17, 2019 she developed anxiety and stress because she was caught in the middle of a shooting while in the performance of duty. On the reverse side of the claim form her supervisor controverted her claim, asserting that the date of the incident was incorrect and that there was no evidence that appellant needed to miss work.

In an accompanying narrative statement, appellant noted that she was caught in the middle of a shootout while delivering mail. She indicated that she notified her manager of the incident and attempted to complete her route. Appellant asserted that she noticed “mysterious, tinted vehicles speeding from one end to the next with their guns toted and shooting,” along her route. She related that she was unable to complete her route and stopped work for the day after informing her manager.

In a May 23, 2019 letter, appellant’s supervisor controverted her claim. She clarified that the employment incident took place on May 15, 2019, not May 17, 2019. Appellant’s supervisor also alleged that appellant had not been seen by a physician to diagnose an injury or determine if she needed to stop work for any length of time. She further argued that appellant’s emotional condition could have been caused by a personal issue and not the employment incident. Appellant’s supervisor noted that appellant stopped work on May 15, 2019 because she did not feel safe. She indicated that appellant returned to work on May 22, 2019 and continued to deliver mail on the same route.

In a development letter dated May 31, 2019, OWCP informed appellant that the evidence of record was insufficient to establish her claim. It advised her of the type of factual and medical evidence needed and provided a questionnaire for her completion. In a separate development letter of even date, OWCP notified the employing establishment of appellant’s emotional condition claim. It requested comments from a knowledgeable supervisor and any additional information such as witness statements or corroborating documents. OWCP afforded both parties 30 days to submit the necessary evidence.

In response, appellant submitted two documents that verified that she saw Veronica M. Kirkland, Ph.D., a licensed clinical professional counselor, on May 21 and 30, 2019.

In a June 30, 2019 e-mail, the employing establishment responded to OWCP’s development letter. It noted that appellant was able to perform her required duties. It indicated that there were no witness statements or additional supporting documents.

By decision dated July 8, 2019, OWCP denied appellant’s claim, finding that, while she had established that the May 15, 2019 incident occurred in the performance of duty, as alleged, she had not submitted medical evidence diagnosing a medical condition in connection with the accepted incident. As such, it concluded that appellant had not established the medical component of fact of injury.

## LEGAL PRECEDENT

An employee seeking benefits under FECA<sup>3</sup> 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,<sup>4</sup> 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>5</sup> 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.<sup>6</sup>

To establish an emotional condition in the performance of duty, a claimant must submit: (1) factual evidence identifying an employment factor or incident alleged to have caused or contributed to his or her claimed emotional condition; (2) medical evidence establishing that he or she has a diagnosed emotional or psychiatric disorder; and (3) rationalized medical opinion evidence establishing that the accepted compensable employment factors are causally related to the diagnosed emotional condition.<sup>7</sup>

Causal relationship is a medical question that requires rationalized medical opinion evidence to resolve the issue.<sup>8</sup> The opinion of the physician must be based on a complete factual and medical background of the claimant, 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 identified by the claimant.<sup>9</sup>

## ANALYSIS

The Board finds that appellant has not met her burden of proof to establish a diagnosed emotional condition causally related to the accepted May 15, 2019 employment incident.

Appellant alleged that she developed an emotional condition, experiencing anxiety and stress after being caught in the middle of a shooting while delivering mail in the performance of duty. OWCP accepted that the May 15, 2019 employment incident occurred, as alleged, in the

---

<sup>3</sup> *Supra* note 1.

<sup>4</sup> *R.S.*, Docket No. 19-1484 (issued January 13, 2020); *J.P.*, 59 ECAB 178 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

<sup>5</sup> *L.L.*, Docket No. 19-1106 (issued October 18, 2019); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

<sup>6</sup> 20 C.F.R. § 10.115; *M.S.*, Docket No. 19-1096 (issued November 12, 2019); *L.M.*, Docket No. 13-1402 (issued February 7, 2014); *Delores C. Ellyett*, 41 ECAB 992 (1990).

<sup>7</sup> *M.K.*, Docket No. 19-0498 (issued October 3, 2019); *J.N.*, Docket No. 19-0215 (issued July 15, 2019); *George H. Clark*, 56 ECAB 162 (2004).

<sup>8</sup> *J.D.*, Docket No. 19-0382 (issued January 3, 2020); *Jacqueline M. Nixon-Steward*, 52 ECAB 140 (2000).

<sup>9</sup> *M.H.*, Docket No. 18-0873 (issued December 18, 2019); *Leslie C. Moore*, 52 ECAB 132 (2000).

performance of duty. However, it noted that appellant failed to establish a diagnosed medical condition causally related to the accepted incident.

Appellant submitted two documents that showed she saw Dr. Kirkland on May 21 and 30, 2019. The reports from Dr. Kirkland do not constitute competent medical evidence. Section 8101(2) of FECA defines the term “physician” to include surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, and osteopathic practitioners within the scope of their practice as defined by state law.<sup>10</sup> However, there is no evidence that Dr. Kirkland, a licensed counselor, is a licensed clinical psychologist, which would qualify her as a “physician” as defined by FECA.<sup>11</sup> Accordingly, as appellant has not submitted medical evidence diagnosing an emotional condition in connection with the accepted employment incident, the Board finds that she has not met her burden of proof to establish her claim.<sup>12</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 a diagnosed medical condition causally related to the accepted May 15, 2019 employment incident.

---

<sup>10</sup> 5 U.S.C. § 8101(2).

<sup>11</sup> *T.M.*, Docket No. 17-1525 (issued January 10, 2018). The Board also notes that these documents did not contain a diagnosis.

<sup>12</sup> See *L.L.*, *supra* note 5.

**ORDER**

**IT IS HEREBY ORDERED THAT** the July 8, 2019 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: March 18, 2020  
Washington, DC

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

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

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