

ISSUE

The issue is whether appellant has met her burden of proof to establish an occupational disease in the performance of duty, as alleged.

FACTUAL HISTORY

On May 18, 2019 appellant, then a 35-year-old rural carrier associate, filed an occupational disease claim (Form CA-2) alleging that she developed an occupational illness and passed out due to factors of her federal employment while delivering mail on her route. She noted that she first became aware of her condition and its relationship to factors of her federal employment on May 18, 2019, the same date she stopped work.

In support of her claim, appellant submitted a statement in which she noted that she had been delivering mail when her eyes began to squint, she started sweating, and had clammy hands. While driving she noticed her vision worsening so she briefly closed her eyes and while her eyes were closed she heard a boom as her vehicle hit a mailbox. Appellant inspected her vehicle and the mailbox, which were undamaged and continued with her route. While delivering another package she felt her legs go weak and she fell. A customer at that location checked on appellant, took her blood pressure, and advised that it was very high. Appellant noted that she had blurry vision and requested that the customer call her supervisor, who then arrived and took her to the hospital.

OWCP received an instructional form from appellant, dated May 18, 2019, from an emergency care center for heat exhaustion.

In a June 5, 2019 development letter, OWCP informed appellant of the deficiencies of her claim. It advised her of the type of factual and medical evidence necessary to establish her claim and attached a questionnaire for her completion. OWCP asked appellant to explain in detail the employment-related exposure which she believed contributed to her condition and the development of her condition, including prior similar conditions. It afforded her 30 days to submit the requested factual and medical evidence.

In response to OWCP's request, appellant submitted evidence including diagnostic testing and discharge notes dated May 18, 2018 from the same emergency care center.

In a May 18, 2019 emergency department note, Dr. Timothy N. McGlaughlin, an osteopath specializing in emergency medicine, provided examination findings and reported that appellant was employed as a mail carrier. Under present injury history, he noted that appellant drank water after seeing spots while delivering mail and that she nearly passed out and became weak after resuming delivery of mail. Appellant reported a history of heart valve problems. Differential diagnoses included syncope, near syncope, dysrhythmia, myocardial infarction, anxiety, dehydration, anemia, dizziness, and orthostatic hypotension.

In a May 24, 2019 report, Dr. Martin R. Artman, a Board-certified emergency room physician, diagnosed hypertension, heat exhaustion, and weakness. Under history of illness, he reported that appellant was seen on May 18, 2019 in the emergency room for syncopal episode,

heat exhaustion, and dehydration. Dr. Artman noted that she had previously been diagnosed with high blood pressure and that she had run out of her medication several weeks prior. In addition, he noted that appellant had a history of heart valve problems and bilateral leg deep vein thrombosis.

A work-related injury verification form dated May 24, 2019 noted that appellant had been treated for heat exhaustion that day.

In a report dated May 28, 2019, Dr. Daniel Lewis Miller, a Board-certified emergency room physician, diagnosed heat exhaustion and anhidrotic. He reported that appellant was seen that day for a recheck of her heat exhaustion.

In a June 4, 2019 note, Tyler Cole, a doctor of nursing practice, reported that appellant was seen that day and was found to be disabled due to cardiac issues until further evaluation.

By decision dated August 1, 2019, OWCP denied appellant's claim finding that the factors of her federal employment had not been established. Specifically, it explained that she failed to respond to OWCP's request for a detailed statement regarding the work activities that contributed to her claimed condition. 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 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 applicable time limitation period of FECA,⁵ 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.⁶ 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.⁷

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; (2) medical evidence establishing the presence or existence of the disease or

⁴ *Supra* note 2.

⁵ *J.S.*, Docket No. 19-1392 (issued February 13, 2020); *S.D.*, Docket No. 19-1240 (issued December 11, 2019); *J.P.*, 59 ECAB 178 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

⁶ *J.S.*, *id.*; *T.W.*, Docket No. 18-0788 (issued July 22, 2019); *J.M.*, Docket No. 17-0284 (issued February 7, 2018); *Gary J. Watling*, 52 ECAB 278 (2001); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁷ *J.S.*, *supra* note 5.; *T.W.*, *id.*; *K.M.*, Docket No. 15-1660 (issued September 16, 2016); *Delores C. Ellyett*, 41 ECAB 992 (1990).

condition for which compensation is claimed; and (3) medical evidence establishing that the diagnosed condition is causally related to the identified employment factors.⁸

An employee's statement that an injury occurred at a given time and in a given manner is of great probative value and will stand unless refuted by strong or persuasive evidence.⁹ Moreover, an injury does not have to be confirmed by eyewitnesses. The employee's statement, however, must be consistent with the surrounding facts and circumstances and his or her subsequent course of action. An employee has not met his or her burden of proof to establish the occurrence of an injury when there are such inconsistencies in the evidence as to cast serious doubt upon the validity of the claim. Circumstances such as late notification of injury, lack of confirmation of injury, continuing to work without apparent difficulty following the alleged injury, and failure to obtain medical treatment may, if otherwise unexplained, cast doubt on an employee's statement in determining whether a *prima facie* case has been established.¹⁰

ANALYSIS

The Board finds that appellant has met her burden of proof to establish that the May 18, 2019 employment incident occurred in the performance of duty, as alleged.

The Board notes initially that appellant claimed an occupational injury by filing a Form CA-2. The evidence of record, however, provided support for a traumatic injury, occurring during the course of a single workday or shift.¹¹ Under the circumstances of the case, the Board finds that she is alleging a traumatic injury, occurring during a single workday.¹²

Appellant alleged that she sustained an injury while delivering mail due to heat exhaustion on May 18, 2019. The record establishes, based upon a statement made by appellant, that on that day she was delivering mail when her vehicle hit a mailbox after briefly closing her eyes and later when her legs gave out while delivering a package. Additionally, appellant sought prompt medical care, first at the emergency room with Dr. McLaughlin, who noted that appellant saw spots while delivering mail, felt weak and nearly passed out after resuming mail delivery. She subsequently sought care with Dr. Artman on May 24, 2019, who noted that appellant had been seen in the emergency room on May 18, 2019 for dehydration, heat exhaustion, and syncopal episode, and Dr. Miller, who reported seeing appellant on May 28, 2019 for a recheck of her heat exhaustion.

⁸ *S.D.*, *supra* note 5; *P.S.*, Docket No. 19-0549 (issued July 26, 2019).

⁹ *K.F.*, Docket No. 18-0485 (issued February 18, 2020); *M.S.*, Docket No. 18-0059 (issued June 12, 2019); *D.B.*, 58 ECAB 464, 466-67 (2007).

¹⁰ *K.F.*, *id.*, *D.R.*, Docket No. 19-0072 (issued June 24, 2019).

¹¹ A traumatic injury is defined 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. 20 C.F.R. § 10.5(ee). An occupational disease is defined as a condition produced by the work environment over a period longer than a single workday or shift. 20 C.F.R. § 10.5(q).

¹² *See C.S.*, Docket No. 19-1809 (issued July 29, 2020). Appellant filed a claim for traumatic injury (Form CA-1), however, the Board found that appellant was alleging an occupational disease resulting from her work environment over a period longer than a single workday or shift.

The injury appellant claimed is consistent with the facts and circumstances she set forth in her statement, her course of action, and the medical evidence she submitted. Further, the history of the employment injury was confirmed by Dr. McGlaughlin, and the contemporaneous medical reports. The Board thus finds that appellant has met her burden of proof to establish that the May 18, 2019 employment incident occurred in the performance of duty, as alleged.¹³

As appellant has established that the May 18, 2019 employment incident factually occurred as alleged, the question becomes whether the incident caused an injury.¹⁴ As OWCP found that appellant had not established fact of injury, it did not evaluate the medical evidence. The Board, therefore, will set aside OWCP's August 1, 2019 decision and remand the case for consideration of the medical evidence of record.¹⁵ After such further development as deemed necessary, OWCP shall issue a *de novo* decision addressing whether appellant has met her burden of proof to establish an injury causally related to the accepted July 31, 2019 employment incident.

CONCLUSION

The Board finds that appellant has met her burden of proof to establish that the May 18, 2019 employment incident occurred in the performance of duty, as alleged. The Board further finds that the case is not in posture for decision regarding whether she has established an injury causally related to the May 18, 2019 employment incident.

¹³ See *M.H.*, Docket No. 20-0576 (issued August 6, 2020); *M.A.*, Docket No. 19-0616 (issued April 10, 2020); *C.M.*, Docket No. 19-0009 (issued May 24, 2019).

¹⁴ *Id.*

¹⁵ *M.H.*, *supra* note 13; *S.M.*, Docket No. 16-0875 (issued December 12, 2017).

ORDER

IT IS HEREBY ORDERED THAT the August 1, 2019 decision of the Office of Workers' Compensation Programs is set aside and the case is remanded for further proceedings consistent with this decision of the Board.

Issued: November 13, 2020
Washington, DC

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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