

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

C.W.,)
and) Docket No. 20-1027
DEPARTMENT OF HOMELAND SECURITY,) Issued: November 18, 2020
U.S. SECRET SERVICE, Washington, DC,)
Employer)

)

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

Case Submitted on the Record

DECISION AND ORDER

Before:

ALEC J. KOROMILAS, Chief Judge
CHRISTOPHER J. GODFREY, Deputy Chief Judge
JANICE B. ASKIN, Judge

JURISDICTION

On April 13, 2020 appellant filed a timely appeal from a November 1, 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.

ISSUE

The issue is whether appellant has met his burden of proof to establish a diagnosed medical condition causally related to the accepted July 24, 2018 employment incident.

FACTUAL HISTORY

On March 26, 2019 appellant, then a 41-year-old telecommunications specialist, filed a traumatic injury claim (Form CA-1) alleging that on July 24, 2018 he experienced stiffness in his

¹ 5 U.S.C. § 8101 *et seq.*

neck when the government-owned vehicle in which he was riding was rear-ended by another vehicle while in the performance of duty. He stopped work on July 25, 2018 and returned to work on July 30, 2018.

In a September 30, 2019 development letter, OWCP informed appellant that it had received no evidence in support of his claim. It advised him of the deficiencies of his claim and instructed him as to the factual and medical evidence necessary to establish his claim. OWCP provided appellant a questionnaire for completion and requested that he provide a narrative medical report from his physician, which contained a detailed description of findings and diagnoses, explaining how the reported incident caused or aggravated his medical condition. It afforded him 30 days to respond. No evidence was received.

By decision dated November 1, 2019, OWCP denied appellant's traumatic injury claim, finding that he had failed to submit medical evidence containing a diagnosis in connection with his injury. It concluded, therefore, that the requirements had not been met to establish an injury as defined under FECA.

LEGAL PRECEDENT

An employee seeking benefits under FECA² 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 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 whether a federal employee has sustained a traumatic injury in the performance of duty, it first must be determined whether the fact of injury has been established. There are two components involved in establishing the fact of injury. First, the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time, place, and in the manner alleged. Second, the employee must submit evidence, in the form of medical evidence, to establish that the employment incident caused a personal injury.⁶

² *Id.*

³ *J.P.*, Docket No. 19-0129 (issued April 26, 2019); *S.B.*, Docket No. 17-1779 (issued February 7, 2018); *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 *R.R.*, Docket No. 19-0048 (issued April 25, 2019); *L.M.*, Docket No. 13-1402 (issued February 7, 2014); *Delores C. Ellyett*, 41 ECAB 992 (1990).

⁶ *K.L.*, Docket No. 18-1029 (issued January 9, 2019); *see* 5 U.S.C. § 8101(5) (injury defined); 20 C.F.R. §§ 10.5(ee), 10.5(q).

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish a diagnosed medical condition causally related to the accepted July 24, 2018 employment incident.

In its September 30, 2019 development letter, OWCP noted that it had not received any medical evidence which established a diagnosed medical condition resulting from the July 24, 2018 employment incident. It provided appellant 30 days to submit the requested medical evidence. It is appellant's burden of proof to obtain and submit medical documentation containing a firm diagnosis causally related to the accepted employment incident. As appellant has not submitted rationalized medical evidence establishing a diagnosed medical condition causally related to the accepted July 24, 2018 employment incident, he has not met his burden of proof to establish his claim.⁷

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 a diagnosed medical condition causally related to the accepted July 24, 2018 employment incident.

ORDER

IT IS HEREBY ORDERED THAT the November 1, 2019 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: November 18, 2020
Washington, DC

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

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

⁷ See M.O., Docket No. 19-1398 (issued August 13, 2020); J.T., Docket No. 18-1755 (issued April 4, 2019).