

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

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| K.R., Appellant |) | |
| |) | |
| and |) | Docket No. 20-0995 |
| |) | Issued: January 29, 2021 |
| U.S. POSTAL SERVICE, BETHLEHEM |) | |
| AIRPORT POST OFFICE, Allentown, PA, |) | |
| Employer |) | |
| |) | |

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

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Chief Judge
JANICE B. ASKIN, Judge
PATRICIA H. FITZGERALD, Alternate Judge

JURISDICTION

On April 9, 2020 appellant filed a timely appeal from a February 26, 2020 merit decision of the Office of Workers' Compensation Programs (OWCP).¹ Pursuant to the Federal Employees' Compensation Act² (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.³

¹ Appellant submitted a timely request for oral argument before the Board. 20 C.F.R. § 501.5(b). Pursuant to the Board's *Rules of Procedure*, oral argument may be held in the discretion of the Board. 20 C.F.R. § 501.5(a). In support of appellant's oral argument request, it was asserted that oral argument should be granted because she had been injured at work and denied. The Board, in exercising its discretion, denies appellant's request for oral argument because the arguments on appeal can adequately be addressed in a decision based on a review of the case record. Oral argument in this appeal would further delay issuance of a Board decision and not serve a useful purpose. As such, the oral argument request is denied and this decision is based on the case record as submitted to the Board.

² 5 U.S.C. § 8101 *et seq.*

³ The Board notes that, following the February 26, 2020 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 her burden of proof to establish a diagnosed medical condition causally related to the accepted January 11, 2020 employment incident.

FACTUAL HISTORY

On January 12, 2020 appellant, then a 33-year-old city carrier, filed a traumatic injury claim (Form CA-1) alleging that on January 11, 2020 she sustained injuries to her back, neck, left side of her head, chest, and left rib when her parked postal vehicle was struck by another vehicle while in the performance of duty. She stopped work on the date of injury.

In an after visit summary dated January 11, 2020, Dr. Priyanka Lauber, an emergency medicine specialist, noted that appellant was seen following a motor vehicle collision, and provided a diagnosis of “motor vehicle collision, initial encounter.” She also indicated that various laboratory and diagnostic tests had been ordered. In a work/school excuse letter of even date, Dr. Lauber noted that appellant had been seen on that date and could return to work on January 14, 2020.

By development letter dated January 22, 2020, OWCP informed appellant that additional medical evidence was necessary to establish her claim. It advised her of the type of medical evidence necessary to establish her claim and afforded her 30 days to respond.

By decision dated February 26, 2020, OWCP accepted that the January 11, 2020 employment incident had occurred, as alleged. However, it denied the claim, finding that the medical evidence of record was insufficient to establish a diagnosed medical condition causally related to the employment incident.

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,⁴ 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.⁵ 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.⁶

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

⁴ *S.B.*, Docket No. 17-1779 (issued February 7, 2018); *J.P.*, 59 ECAB 178 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

⁵ *J.M.*, Docket No. 17-0284 (issued February 7, 2018); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

⁶ *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).

component is whether the employee actually experienced the employment incident that allegedly occurred.⁷ The second component is whether the employment incident caused a personal injury.⁸

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.⁹

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish a diagnosed medical condition causally related to the accepted January 11, 2020 employment incident.

On the date of injury, appellant sought emergency medical treatment with Dr. Lauber. Dr. Lauber, however, only assessed appellant as having been involved in a motor vehicle collision, which is a description of the incident, not a diagnosis.¹⁰ The remainder of the medical evidence of record, which includes the work/school excuse letter of the same date, similarly did not contain a firm diagnosis of a medical condition.

As the record lacks rationalized medical evidence establishing a diagnosed medical condition causally related to the accepted January 11, 2020 employment incident, the Board finds that appellant has not met her burden of proof to establish her claim.¹¹

Appellant may submit additional evidence, together with a written request for reconsideration, to OWCP within one year of the Board's 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 January 11, 2020 employment incident.

⁷ *B.P.*, Docket No. 16-1549 (issued January 18, 2017); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁸ *M.H.*, Docket No. 18-1737 (issued March 13, 2019); *John J. Carlone*, 41 ECAB 354 (1989).

⁹ *M.O.*, Docket No. 19-1398 (issued August 13, 2020); *J.L.*, Docket No. 18-1804 (issued April 12, 2019).

¹⁰ *See K.V.*, Docket No. 18-0723 (issued November 9, 2018).

¹¹ *See T.O.*, Docket No. 18-0139 (issued May 24, 2018).

ORDER

IT IS HEREBY ORDERED THAT the February 26, 2020 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: January 29, 2021
Washington, DC

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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