

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

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M.H., Appellant

and

DEPARTMENT OF THE AIR FORCE, HILL  
AIR FORCE BASE, Hill Field, UT, Employer  
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**Docket No. 21-0578  
Issued: October 15, 2021**

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

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

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

**JURISDICTION**

On March 3, 2021 appellant filed a timely appeal from a February 10, 2021 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act<sup>1</sup> (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.<sup>2</sup>

**ISSUE**

The issue is whether appellant has met his burden of proof to establish left elbow and thumb conditions causally related to the accepted October 20, 2020 employment incident.

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<sup>1</sup> 5 U.S.C. § 8101 *et seq.*

<sup>2</sup> The Board notes that, following the February 10, 2021 decision, OWCP received additional evidence. 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.*

## **FACTUAL HISTORY**

On January 5, 2021 appellant, then a 40-year-old aircraft mechanic, filed a traumatic injury claim (Form CA-1) alleging that on October 20, 2020 he sustained a laceration to his left elbow and an injury to his left thumb when he fell from an F-35 aircraft ladder while in the performance of duty. He further explained that there was bruising to the left thumb, the left elbow laceration measured seven centimeters in length, and that he received 17 stitches. On the reverse side of the claim form an employing establishment supervisor confirmed that appellant was in the performance of duty when the incident occurred and that his knowledge of the facts about the injury were in agreement with appellant's statements. Appellant stopped work on the date of injury and returned to work the following day.

In an October 20, 2020 hospital discharge summary, Thomas Schneider, a physician assistant, related that appellant reported a fall, was diagnosed with a left elbow laceration and injury to the left thumb, underwent x-rays of the left elbow, hand, and thumb, and received sutures.

In a January 7, 2021 development letter, OWCP informed appellant of the deficiencies of his claim. It advised him of the type of factual and medical evidence necessary and provided a questionnaire for his completion. OWCP afforded appellant 30 days to respond. No response was received.

By decision dated February 10, 2021, OWCP accepted that the October 20, 2020 employment incident occurred as alleged. However, it denied the claim, finding that the evidence of record was insufficient to establish a medical diagnosis in connection with the accepted incident. Consequently, OWCP found that appellant had not met the requirements to establish an injury as defined by FECA.

## **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 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,<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>

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

<sup>4</sup> *F.H.*, Docket No. 18-0869 (issued January 29, 2020); *J.P.*, Docket No. 19-0129 (issued April 26, 2019); *Joe D. Cameron*, 41 ECAB 153 (1989).

<sup>5</sup> *L.C.*, Docket No. 19-1301 (issued January 29, 2020); *J.H.*, Docket No. 18-1637 (issued January 29, 2020); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

<sup>6</sup> *P.A.*, Docket No. 18-0559 (issued January 29, 2020); *K.M.*, Docket No. 15-1660 (issued September 16, 2016); *Delores C. Ellyett*, 41 ECAB 992 (1990).

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it first must be determined whether fact of injury has been established. There are two components involved in establishing 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 sufficient evidence to establish that the employment incident caused a personal injury.<sup>7</sup>

The medical evidence required to establish causal relationship between a claimed specific condition and an employment incident is rationalized medical opinion evidence.<sup>8</sup> The opinion of the physician must be based on a complete factual and medical background of the employee, 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 specific employment factors identified by the employee.<sup>9</sup>

Pursuant to OWCP's procedures, no development of a claim is necessary when the condition reported is a minor one which can be identified on visual inspection by a lay person (*e.g.*, burn, laceration, insect sting, or animal bite).<sup>10</sup> No medical report is required to establish a minor condition such as a laceration or bruise.<sup>11</sup> Sound judgment should be employed in these cases to provide appropriate and immediate medical care for the injured worker since expeditious treatment for these injuries is critical.<sup>12</sup>

### ANALYSIS

The Board finds that appellant has met his burden of proof to establish a left elbow laceration and a left thumb bruise causally related to the accepted October 20, 2020 employment incident.

OWCP found that the October 20, 2020 employment incident in which appellant fell from an aircraft ladder while in the performance of duty causing him to sustain a laceration to his left elbow requiring stitches, as well as bruising to his left thumb, occurred as alleged. On the reverse side of his Form CA-1, the employing establishment acknowledged that he was injured while in the performance of duty and that its knowledge of the facts of the injury were consistent with his

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<sup>7</sup> *T.H.*, Docket No. 19-0599 (issued January 28, 2020); *K.L.*, Docket No. 18-1029 (issued January 9, 2019); *John J. Carlone*, 41 ECAB 354 (1989).

<sup>8</sup> *S.S.*, Docket No. 19-0688 (issued January 24, 2020); *A.M.*, Docket No. 18-1748 (issued April 24, 2019); *Robert G. Morris*, 48 ECAB 238 (1996).

<sup>9</sup> *T.L.*, Docket No. 18-0778 (issued January 22, 2020); *Y.S.*, Docket No. 18-0366 (issued January 22, 2020); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

<sup>10</sup> See Federal (FECA) Procedure Manual, Part 2 -- Claims, *Initial Development of Claims*, Chapter 2.800.6(a) (June 2011). See also *T.W.*, Docket No. 20-0807 (issued December 3, 2020); *A.J.*, Docket No. 20-0484 (issued September 2, 2020); *S.K.*, Docket No. 18-1411 (issued July 22, 2020).

<sup>11</sup> *Id.*

<sup>12</sup> See *I.H.*, Docket No. 19-1678 (issued April 21, 2020); *E.H.*, Docket No. 19-1282 (issued December 23, 2019); *M.C.*, Docket No. 18-1278 (issued March 7, 2019); *R.T.*, Docket No. 08-0408 (issued December 16, 2008); *Gregory J. Reser*, 57 ECAB 277 (2005).

statements. On the date of injury appellant was seen in the hospital and a discharge summary noted diagnoses of left elbow laceration, requiring sutures, and a left thumb bruise.

As the evidence of record establishes that appellant's October 20, 2020 employment incident resulted in a laceration and a bruise, which are visible injuries, the Board finds that he has met his burden of proof.<sup>13</sup>

Accordingly, the Board will reverse the February 10, 2021 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 left elbow laceration and a left thumb bruise causally related to the accepted October 20, 2020 employment incident.

### **ORDER**

**IT IS HEREBY ORDERED THAT** the February 10, 2021 decision of the Office of Workers' Compensation Programs is reversed.

Issued: October 15, 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

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<sup>13</sup> See Federal (FECA) Procedure Manual, Part 2 -- Claims, *Initial Development of Claims*, Chapter 2.800.6(a) (June 2011); Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3(c) (January 2013). See also *A.J.*, supra note 10; *S.K.*, Docket No. 18-1411 (issued July 22, 2020).