

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

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| M.B., Appellant |) | |
| |) | |
| and |) | Docket No. 21-1236 |
| |) | Issued: February 2, 2022 |
| DEPARTMENT OF JUSTICE, FEDERAL |) | |
| BUREAU OF INVESTIGATION ACADEMY, |) | |
| Quantico, VA, 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
PATRICIA H. FITZGERALD, Alternate Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On August 12, 2021 appellant filed a timely appeal from May 11 and June 30, 2021 merit decisions 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 February 14, 2019 employment incident.

FACTUAL HISTORY

On February 22, 2019 appellant, then a 32-year-old new agent trainee, filed a traumatic injury claim (Form CA-1) alleging that on February 14, 2019 he sustained a contusion to the

¹ 5 U.S.C. § 8101 *et seq.*

cartilage and muscles of his lower left rib during a physical training course while in the performance of duty. He explained that the incident resulted from grappling exercises during defensive tactics training and that it caused him to have difficulty with mobility, sitting, bending, and laying down. Appellant did not stop work.

In an authorization for examination form and/or treatment (Form CA-16) dated February 14, 2019, the employing establishment authorized treatment at the emergency room of a hospital. E.C., the authorizing official, noted a February 14, 2019 date of injury and described appellant's alleged injury as a contusion and pain in the left chest and rib region.

On February 14, 2019 Dr. James Sprinkle, a Board-certified radiologist, performed an x-ray of the left side of appellant's chest and ribs and found no evidence of rib fracture, lung contusion, or pneumothorax. He noted that the pain appellant was experiencing was "most likely" due to muscular strain. In medical notes of even date, Dr. Scott Ottolini, Board-certified in emergency medicine, also recounted the history of injury and also noted that there was no evidence of fracture, lung contusion or pneumothorax, or any acute abnormalities. In a separate medical report of even date, he related that appellant was experiencing pain in the left anterior side of the ribcage after he was involved in combat training at the employing establishment. Dr. Ottolini noted that appellant's pain increased when he attempted to change positions or touched the injury site.

In a development letter dated April 5, 2021, OWCP informed appellant of the deficiencies of his claim. It advised him of the type of factual and medical evidence necessary to establish his claim and provided a questionnaire for his completion. It afforded him 30 days to submit the necessary evidence.

In progress notes dated February 14 through March 12, 2019, Amanda Odonall and Joyceann Bilefernich, nurse practitioners with the employing establishment, examined appellant and noted a bulge and contusion of the left ribcage. Ms. Odonall related that on February 14, 2019 appellant experienced significant pain alongside his ribcage resulting in difficulty breathing. In subsequent progress notes, he reported that following weeks of pain medication and physical therapy, he experienced decreased pain alongside the ribcage and denied breathing issues.

On April 28, 2021 appellant submitted a response to OWCP's development questionnaire. He explained that on February 14, 2019 he injured his left rib cage during a grappling exercise. Appellant reported that his symptoms consisted of severe pain to the lower left rib cage and difficulty walking, running, bending down, and moving his torso. He asserted that he sought emergency medical attention immediately after the nurses noted a protrusion, bulge, and swelling on the left lower rib cage. Appellant noted that he underwent x-rays of his left rib region while at the emergency room.

By decision dated May 11, 2021, OWCP denied appellant's traumatic injury claim, finding that "pain" is not a valid medical diagnosis and that the medical evidence of record was insufficient to establish a left rib condition causally related to the accepted February 14, 2019 employment incident. It concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

On June 22, 2021 appellant requested reconsideration and attached additional medical evidence in support thereof.

In a February 14, 2019 after visit summary, Dr. Ottolini diagnosed myalgia and pleurodynia, a viral infection, as a result of appellant's left rib condition. He further noted that appellant was experiencing slight swelling and tenderness at the injury site. Dr. Ottolini prescribed pain medication and recommended follow up with a primary care physician. OWCP also received previously submitted hospital notes by Dr. Ottolini and hospital staff.

By decision dated June 30, 2021, OWCP denied modification its May 11, 2021 decision.

LEGAL PRECEDENT

A claimant seeking benefits under FECA² 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,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 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 and place, and in the manner alleged. The second component is whether the employment incident caused a personal injury.⁶

The medical evidence required to establish causal relationship is rationalized medical opinion evidence.⁷ Rationalized medical opinion evidence is medical evidence, which includes a physician's rationalized opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the claimant, must be

² *Supra* note 1.

³ *F.H.*, Docket No. 18-0869 (issued January 29, 2020); *J.P.*, Docket No. 19-0129 (issued December 13, 2019); *Joe D. Cameron*, 41 ECAB 153 (1989).

⁴ *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).

⁵ *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).

⁶ *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).

⁷ *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).

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 claimant.⁸

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).⁹

ANALYSIS

The Board finds that appellant has met his burden of proof to establish a bulge and contusion causally related to the accepted February 14, 2019 employment incident.

Ms. Odonnell and Ms. Bilefernich, nurse practitioners with the employing establishment, examined appellant on the date of injury and noted a bulge and contusion of the left ribcage. In a February 14, 2019 after visit summary, Dr. Ottolini noted that appellant was experiencing slight swelling and tenderness at the injury site.

As the evidence of record establishes that appellant's employment incident resulted in a visible injury, the Board finds that appellant has met his burden of proof to establish a left ribcage bulge and contusion causally related to the accepted February 14, 2019 employment incident.¹⁰ The Board will, therefore, reverse in part the May 11, 2021 decision and remand the case for payment of medical costs and wage-loss compensation for disability, if any.¹¹

The Board further finds, however, that the case is not in posture for decision with regard to whether appellant has established additional medical conditions as causally related to the accepted February 14, 2019 employment injury.

Dr. Ottolini, in his February 14, 2019 after visit summary, diagnosed pleurodynia, a viral infection. As the medical evidence demonstrates that appellant was diagnosed with pleurodynia, the case must be remanded for consideration of the medical evidence with regard to the issue of causal relationship. Following this and other such further development as deemed necessary, OWCP shall issue a *de novo* decision.

⁸ *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).

⁹ See Federal (FECA) Procedure Manual, Part 2 -- Claims, *Initial Development of Claims*, Chapter 2.800.6(a) (June 2011). See also Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3(c) (January 2013). *R.H.*, Docket No. 20-1684 (issued August 27, 2021); *M.B.*, Docket No. 15-0287 (issued August 20, 2015); *Pearlene Morton*, 52 ECAB 493 (2001).

¹⁰ *Id.*

¹¹ See *W.R.* Docket No. 20-1101 (issued January 26, 2021); *A.J.*, Docket No. 20-0484 (issued September 2, 2020).

CONCLUSION

The Board finds that appellant has met his burden of proof to establish a left ribcage bulge and contusion causally related to the to the accepted February 14, 2019 employment incident. The Board further finds, however, that the case is not in posture for decision with regard to whether appellant has established additional medical conditions as causally related to the accepted February 14, 2019 employment injury.

ORDER

IT IS HEREBY ORDERED THAT the May 11 and June 30, 2021 decisions of the Office of Workers' Compensation Programs are reversed in part and set aside in part and the case is remanded for further proceedings consistent with this decision of the Board.¹²

Issued: February 2, 2022
Washington, DC

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

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

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

¹² A completed Form CA-16 authorization may constitute a contract for payment of medical expenses to a medical facility or physician, when properly executed. The form creates a contractual obligation, which does not involve the employee directly, to pay for the cost of the examination or treatment regardless of the action taken on the claim. *See* 20 C.F.R. § 10.300(c); *S.P.*, Docket No. 19-1904 (issued September 2, 2020); *J.G.*, Docket No. 17-1062 (issued February 13, 2018); *Tracy P. Spillane*, 54 ECAB 608 (2003).