

<sup>2</sup> The Board notes that, following the September 13, 2021 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 his burden of proof to establish a diagnosed condition causally related to the accepted February 23, 2021 employment incident.

## **FACTUAL HISTORY**

On July 29, 2021 appellant, then a 48-year-old police officer, filed a traumatic injury claim (Form CA-1) alleging that on January 16, 2021 he sustained a right elbow injury when performing push-ups during a physical agility test while in the performance of duty. He explained that he felt a pop in his elbow and immediately experienced pain and swelling in the right elbow and numbness in his right hand, which progressively worsened with typing and desk work. In an August 17, 2021 memorandum of telephone call (Form CA-110), appellant advised OWCP that the date of injury was incorrect. In a note received on August 30, 2021, the employing establishment requested that the date of injury be corrected to February 23, 2021. Appellant did not stop work.

In a development letter dated August 9, 2021, OWCP informed appellant of the deficiencies in 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. OWCP afforded appellant 30 days to respond. No response was received.

By decision dated September 13, 2021, OWCP accepted that the February 23, 2021 employment incident occurred as alleged. However, it denied appellant's traumatic injury claim, finding that he did not submit any medical evidence to establish a diagnosed condition causally related to the accepted employment incident. OWCP concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

## **LEGAL PRECEDENT**

A claimant 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 December 13, 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. The first component is that 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.<sup>7</sup>

The medical evidence required to establish causal relationship is rationalized medical opinion evidence.<sup>8</sup> 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 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.<sup>9</sup>

### ANALYSIS

The Board finds that appellant has not met his burden of proof to establish a diagnosed condition causally related to the accepted February 23, 2021 employment incident.

On July 29, 2021 appellant filed a traumatic injury claim alleging that he injured his right elbow on February 23, 2021 while in the performance of duty. No medical evidence was received in support of his claim. In an August 9, 2021 development letter, OWCP requested that appellant submit medical evidence to support his claim. Appellant, however, did not submit the requested evidence.

There is no medical evidence of record establishing a diagnosed condition causally related to the accepted February 23, 2021 employment incident. The Board finds that appellant has not met his burden of proof.

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.

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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).

**CONCLUSION**

The Board finds that appellant has not met his burden proof to establish a diagnosed condition causally related to the accepted February 23, 2021 employment incident.

**ORDER**

**IT IS HEREBY ORDERED THAT** the September 13, 2021 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: June 9, 2022  
Washington, DC

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

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

A handwritten signature in cursive script, appearing to read "J. D. McGinley". The signature is written in dark ink and is positioned above the printed name of the signatory.

James D. McGinley, Alternate Judge  
Employees' Compensation Appeals Board