

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

C.B., Appellant)

and)

DEPARTMENT OF VETERANS AFFAIRS,)
TENNESSEE VALLEY HEALTH CARE)
SYSTEM - YORK CAMPUS, Murfreesboro, TN,)
Employer)
_____)

Docket No. 22-0836
Issued: November 29, 2022

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, Deputy Chief Judge
JANICE B. ASKIN, Judge

JURISDICTION

On May 5, 2022 appellant filed a timely appeal from a March 4, 2022 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 her burden of proof to establish a medical condition in connection with the accepted December 11, 2021 employment incident.

¹ 5 U.S.C. § 8101 *et seq.*

FACTUAL HISTORY

On January 17, 2022 appellant, then a 59-year-old nursing assistant, filed a traumatic injury claim (Form CA-1) alleging that on December 11, 2021 she sustained headache and dizziness when a patient's head butted her while she was dressing him while in the performance of duty. She stopped work on December 13, 2021 and returned on December 17, 2021.

Accompanying appellant's claim was a December 17, 2021 work excuse from Dr. Pearline M. Butcher, an osteopath specializing in family medicine, requesting appellant be excused from work from December 13 to 17, 2021. She referenced appellant's head trauma of December 11, 2021.

In a January 24, 2022 development letter, OWCP informed appellant of the deficiencies of her claim. It advised her as to the type of factual and medical evidence required to establish her claim and afforded her 30 days to submit the necessary evidence.

OWCP subsequently received a December 14, 2021 office visit note from Dr. Butcher who noted appellant's history of injury on December 11, 2021. Dr. Butcher noted appellant's physical examination findings, including that appellant had no contusions about the head or forehead, but did have tenderness about the frontal hairline. She diagnosed unspecified head injury, headache, low back pain, and cervicalgia. Dr. Butcher referred appellant for a brain/head computerized tomography scan due to head injury/headache as the result of trauma.

By decision dated March 4, 2022, OWCP denied appellant's traumatic injury claim, finding that she had established that the incident occurred on December 11, 2021 as alleged. However, it further found that she had not submitted medical evidence containing a diagnosis in connection with the accepted December 11, 2021 employment incident. Consequently, OWCP found that she had not met the requirements to establish an injury as defined by FECA.²

LEGAL PRECEDENT

An employee seeking benefits under FECA³ 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,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

² *Id.*

³ *Id.*

⁴ *S.M.*, Docket No. 22-0075 (issued May 6, 2022); *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).

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 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. 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.⁷

The medical evidence required to establish a causal relationship is rationalized medical opinion evidence.⁸ 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 incident identified by the employee.⁹

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish a medical condition in connection with the accepted December 11, 2021 employment incident.

In support of her claim, appellant submitted a December 17, 2021 work excuse referencing a head trauma which happened on December 11, 2021 and a December 14, 2021 office visit diagnosing headache, low back pain, and cervicgia from Dr. Butcher. The Board has held that pain is a description of a symptom, not a clear diagnosis of a medical condition.¹⁰ A medical report lacking a diagnosis is of no probative value.¹¹ This evidence, therefore, insufficient to establish the claim.

⁵ *S.H.*, Docket No. 22-0391 (issued June 29, 2022); *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).

⁶ *E.H.*, Docket No. 22-0401 (issued June 29, 2022); *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).

⁷ *H.M.*, Docket No. 22-0343 (issued June 28, 2022); *T.J.*, Docket No. 19-0461 (issued August 11, 2020); *K.L.*, Docket No. 18-1029 (issued January 9, 2019); *John J. Carlone*, 41 ECAB 354 (1989).

⁸ *S.M.*, *supra* note 4; *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).

⁹ *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).

¹⁰ *See D.M.*, Docket No. 21-1244 (issued March 25, 2022); *E.S.*, Docket No. 21-0189 (issued November 16, 2021); *C.S.*, Docket No. 20-1354 (issued January 29, 2021); *D.R.*, Docket No. 18-1408 (issued March 1, 2019); *D.A.*, Docket No. 18-0783 (issued November 8, 2018).

¹¹ *L.T.*, Docket No. 20-0582 (issued November 15, 2021); *E.S.*; *C.S.*, *id.*; *J.P.*, Docket No. 20-0381 (issued July 28, 2020); *R.L.*, Docket No. 20-0284 (issued June 30, 2020).

As the medical evidence of record is insufficient to establish a medically-diagnosed condition in connection with the accepted December 11, 2021 employment incident, the Board finds that appellant has not met her 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.

CONCLUSION

The Board finds that appellant has not met her burden of proof to establish a medical condition causally related to the accepted December 11, 2021 employment incident.

ORDER

IT IS HEREBY ORDERED THAT the March 4, 2022 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: November 29, 2022
Washington, DC

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

Patricia H. Fitzgerald, Deputy Chief Judge
Employees' Compensation Appeals Board

Janice B. Askin, Judge
Employees' Compensation Appeals Board