

¹ 5 U.S.C. § 8101 *et seq.*

having problems with her knee in 2019, including swelling and an increase in pain, when performing her official duties. Appellant noted that she first became aware of her condition on July 15, 2019 and realized its relation to her federal employment on September 1, 2019. She did not stop work.

In a development letter dated July 20, 2021, OWCP informed appellant of the deficiencies of her claim. It advised her of the type of factual and medical evidence necessary to establish her claim and provided a questionnaire for her completion. OWCP afforded appellant 30 days to submit the necessary evidence.

On August 16, 2021 appellant requested a 30-day extension to submit the requested information. OWCP approved her request on August 19, 2021. No response was received.

By decision dated October 6, 2021, OWCP denied appellant's occupational disease claim, finding that she had not established the factual component of her claim as she neither responded to its developmental questionnaire nor submitted any evidence. Consequently, it found that she had not met the requirements to establish an injury as defined by FECA.

LEGAL PRECEDENT

An employee 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 establish that an injury was sustained in the performance of duty in an occupational disease claim, an employee must submit the following: (1) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; (2) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; and (3) medical evidence establishing that the diagnosed condition is causally related to the identified employment factors.⁶

² *Id.*

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.W.*, Docket No. 20-0767 (issued January 13, 2021); *L.D.*, Docket No. 19-1301 (issued January 29, 2020); *S.C.*, Docket No. 18-1242 (issued March 13, 2019).

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish an injury in the performance of duty, as alleged.

In her Form CA-2, appellant alleged that she developed a knee condition beginning in 2019 due to her employment factors, including repetitive walking and ascending stairs. OWCP, in its July 20, 2021 development letter, informed her of the deficiencies of her claim. It advised appellant of the type of factual and medical evidence necessary to establish her claim and provided a questionnaire for her completion. OWCP afforded her 30 days to submit the necessary evidence. Appellant, however, did not respond to OWCP's development letter or provide evidence identifying employment factors alleged to have caused or contributed to the presence or occurrence of a medical condition.⁷ As noted, she bears the burden of submitting a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of a disease or condition.⁸

As the evidence of record is insufficient to establish the alleged employment factors, 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 an injury in the performance of duty, as alleged.

⁷ *Id.*

⁸ *Id.*; *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

ORDER

IT IS HEREBY ORDERED THAT the October 6, 2021 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: February 7, 2023
Washington, DC

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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