

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

_____)	
N.S., Appellant)	
)	
and)	Docket No. 22-1229
)	Issued: January 10, 2023
DEPARTMENT OF TREASURY, INTERNAL)	
REVENUE SERVICE, Ogden, UT, 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, Deputy Chief Judge
JANICE B. ASKIN, Judge

JURISDICTION

On August 23, 2022 appellant filed a timely appeal from an August 22, 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.²

ISSUE

The issue is whether appellant has met his burden of proof to establish a diagnosed medical condition in connection with the accepted June 27, 2022 employment incident.

¹ 5 U.S.C. § 8101 *et seq.*

² The Board notes that, following the issuance of the August 22, 2022 decision, appellant submitted additional evidence to OWCP. 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.*

FACTUAL HISTORY

On June 28, 2022 appellant, then a 31-year-old clerk typist/computer clerk, filed a traumatic injury claim (Form CA-1) alleging that on June 27, 2022 he injured his elbows and neck, and developed a headache, when his chair rolled out from under him causing him to fall to the ground while in the performance of duty. On the reverse side of the claim form, appellant's supervisor acknowledged that appellant was injured in the performance of duty. The form indicated that appellant stopped work on June 28, 2022.

OWCP, by development letter dated July 6, 2022, informed appellant of the deficiencies of his claim. It advised him of the type of additional factual and medical evidence needed, including a narrative report from a physician containing a detailed description of findings and a diagnosis, as well as a medical explanation from a physician as to how the work incident caused or aggravated a medical condition. OWCP afforded appellant 30 days to respond. No response was received.

By decision dated August 22, 2022, OWCP found that the incident had occurred as alleged, but denied appellant's traumatic injury claim, finding that the evidence of record was insufficient to establish a medical diagnosis, signed by a physician, in connection with the accepted employment incident.

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, 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 an employee sustained a traumatic injury in the performance of duty, it must first be determined whether fact of injury has been established. There are two components involved in establishing fact of injury. The first component is whether the employee actually experienced the employment incident that allegedly occurred. The second component is whether

³ *Supra* note 1.

⁴ *J.M.*, Docket No. 17-0284 (issued February 7, 2018); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

⁵ *B.H.*, Docket No. 20-0777 (issued October 21, 2020); *K.M.*, Docket No. 15-1660 (issued September 16, 2016); *L.M.*, Docket No. 13-1402 (issued February 7, 2014); *Delores C. Ellyett*, 41 ECAB 992 (1990).

the employment incident caused a personal injury and can generally be established only by medical evidence.⁶

Causal relationship is a medical issue, and the medical evidence required to establish causal relationship is rationalized medical opinion evidence.⁷ 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 the specific employment factors identified by the claimant.⁸

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish a diagnosed medical condition causally related to the accepted June 27, 2022 employment incident.

The Board notes that appellant has not submitted any medical evidence in support of his claim. As noted above, an employee seeking benefits under FECA has the burden of proof to establish the essential elements of his or her claim, including that any disability or medical condition for which compensation is claimed is causally related to the employment injury.⁹ Causal relationship is a medical issue, and the medical evidence required to establish causal relationship is rationalized medical opinion evidence.¹⁰

As the evidence of record does not include a medical report, signed by a physician, noting a medical diagnosis in connection with the accepted June 27, 2022 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.

CONCLUSION

The Board finds that appellant has not met his burden of proof to establish a diagnosed medical condition in connection with the accepted June 27, 2022 employment incident.

⁶ *M.H.*, Docket No. 18-1737 (issued March 13, 2019); *John J. Carlone*, 41 ECAB 354 (1989); see 5 U.S.C. § 8101(5) (injury defined); 20 C.F.R. §§ 10.5(ee), 10.5(q) (traumatic injury and occupational disease defined, respectively).

⁷ *A.M.*, Docket No. 18-1748 (issued April 24, 2019); *T.H.*, 59 ECAB 388 (2008).

⁸ *M.V.*, Docket No. 18-0884 (issued December 28, 2018); *I.J.*, 59 ECAB 408 (2008).

⁹ *Supra* note 3.

¹⁰ *Supra* note 6.

ORDER

IT IS HEREBY ORDERED THAT the August 22, 2022 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: January 10, 2023
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