United States Department of Labor
Employees' Compensation Appeals Board

J.C., Appellant	)	
and	)	**Docket No. 23-0398**
	)	**Issued: July 21, 2023**
DEPARTMENT OF TRANSPORTATION, FEDERAL AVIATION ADMINISTRATION, San Diego, CA, Employer	)	

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
PATRICIA H. FITZGERALD, Deputy Chief Judge
JANICE B. ASKIN, Judge
JAMES D. McGINLEY, Alternate Judge

JURISDICTION

On January 26, 2023 appellant filed a timely appeal from a January 17, 2023 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act[1] (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 that his left eye condition was causally related to the accepted December 3, 2022 employment exposure.

FACTUAL HISTORY

On December 3, 2022 appellant, then a 39-year-old air traffic controller, filed a traumatic injury claim (Form CA-1) alleging that on that day he sustained a left eye injury when he was

[1] 5 U.S.C. § 8101 *et seq*.

exposed to toxic cleaning chemicals while in the performance of duty. He indicated that his left eye became irritated, inflamed, red and itchy and that he had a runny nose and sneezing. Appellant stopped work on December 3, 2022 and returned to work on December 8, 2022.

In support of his claim, appellant submitted a December 3, 2022 after visit summary and a work status report from Tyler James Ryan, a physician assistant, who diagnosed left conjunctivitis. He held appellant off work from December 3 through December 4, 2022.

On December 5, 2022 the employing establishment issued a Form CA-16 authorization for examination and/or treatment for the December 3, 2022 left eye irritation due to cleaning chemicals.

In a development letter dated December 14, 2022, OWCP notified appellant of the deficiencies of his claim. It advised him regarding the type of factual and medical evidence needed and provided a questionnaire for his completion. OWCP afforded appellant 30 days to submit the necessary evidence.

In response, OWCP received a December 3, 2022 progress note from Dr. Angelo Olmedo, a family medical specialist. Dr. Olmedo reported that appellant had pain associated with redness at left eye since the morning. Appellant denied injury/trauma or known foreign body. A diagnosis of left conjunctivitis was provided.

OWCP also received the employing establishment's December 15, 2022 letter controverting the claim. In a January 6, 2023 response, appellant reiterated his history of injury.

By decision dated January 17, 2023, OWCP accepted that appellant was exposed to toxic cleaning chemicals used in the facility, as alleged. However, it denied his claim finding that the medical evidence was insufficient to establish that the diagnosed medical condition was causally related to the accepted employment exposure.

LEGAL PRECEDENT

An employee seeking benefits under FECA[2] has the burden of proof to establish the essential elements of his or her claim, including the fact 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

[2] *Id.*

[3] *J.P.*, Docket No. 19-0129 (issued April 26, 2019); *S.B.*, Docket No. 17-1779 (issued February 7, 2018); *Joe D. Cameron*, 41 ECAB 153 (1989).

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 the fact of injury has been established. There are two components involved in establishing the 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. Second, the employee must establish that the employment incident caused a personal injury.[6]

Causal relationship is a medical question that requires rationalized medical opinion evidence to resolve the issue.[7] The opinion of the physician must be based on a complete factual and medical background, 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 incident.[8] Neither the mere fact that a disease or condition manifests itself during a period of employment, nor the belief that the disease or condition was caused or aggravated by employment factors or incidents is sufficient to establish causal relationship.[9]

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish that his left eye condition was causally related to the accepted December 3, 2022 employment incident.

In a December 3, 2022 progress note, Dr. Olmedo diagnosed left eye conjunctivitis. However, he failed to provide any opinion regarding causal relationship. The Board has held that medical evidence that does not offer an opinion regarding the cause of an employee's condition is of no probative value on the issue of causal relationship.[10] Thus, Dr. Olmedo's report is insufficient to establish the claim.

The remaining evidence consists of medical evidence signed by a physician assistant. However, the Board has held that certain healthcare providers, such as physician assistants, are not

[4] *L.C.*, Docket No. 21-0811 (issued January 31, 2023); *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] *R.R.*, Docket No. 19-0048 (issued April 25, 2019); *L.M.*, Docket No. 13-1402 (issued February 7, 2014); *Delores C. Ellyett*, 41 ECAB 992 (1990).

[6] *K.L.*, Docket No. 18-1029 (issued January 9, 2019); *see* 5 U.S.C. § 8101(5) (injury defined); 20 C.F.R. §§ 10.5(ee), 10.5(q).

[7] *T.H.*, 59 ECAB 388, 393-94 (2008); *Robert G. Morris*, 48 ECAB 238 (1996).

[8] *S.S.*, Docket No. 18-1488 (issued March 11, 2019); *M.V.*, Docket No. 18-0884 (issued December 28, 2018); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

[9] *T.M.*, Docket No. 22-0220 (issued July 29, 2022); *J.L.*, Docket No. 18-1804 (issued April 12, 2019).

[10] *See J.R.*, Docket No. 21-0223 (issued January 30, 2023); *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

considered physician[s] as defined under FECA.[11] Consequently, their medical findings and/or opinions will not suffice for purposes of establishing entitlement to FECA benefits.[12]

As the medical evidence of record is insufficient to establish causal relationship between the diagnosed condition(s) and the accepted employment exposure, 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 that his left eye condition was causally related to the accepted December 3, 2022 employment exposure.[13]

[11] Section 8101(2) of FECA provides that physician "includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, and osteopathic practitioners within the scope of their practice as defined by State law." 5 U.S.C. § 8101(2); 20 C.F.R. § 10.5(t). *See* Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3a(1) (January 2013); *David P. Sawchuk*, 57 ECAB 316, 320 n.11 (2006) (lay individuals such as physician assistants, nurses, and physical therapists are not competent to render a medical opinion under FECA). *See also S.S.*, Docket No. 21-1140 (issued June 29, 2022) (physician assistants are not considered physicians under FECA and are not competent to provide medical opinions); *George H. Clark*, 56 ECAB 162 (2004) (physician assistants are not considered physicians under FECA).

[12] *Id*.

[13] The Board notes that the employing establishment issued a Form CA-16 authorization for examination and/or treatment of appellant's December 3, 2022 injury. 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. The period for which treatment is authorized by a Form CA-16 is limited to 60 days from the date of issuance, unless terminated earlier by OWCP. *See* 20 C.F.R. § 10.300(c); *J.G.*, Docket No. 17-1062 (issued February 13, 2018); *Tracy P. Spillane*, 54 ECAB 608 (2003).

ORDER

IT IS HEREBY ORDERED THAT the January 17, 2023 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: July 21, 2023
Washington, DC

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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