



to his stomach, vomiting, chills, fever, and a cotton mouth causally related to factors of his federal employment, including working on a fire line beginning June 29, 2023. He explained that he traversed bumpy roads, the temperature exceeded 98 degrees, the terrain was rocky, and appellant had to hike 20 minutes. Appellant had also spent the night on hard ground. He noted that he first became aware of his condition and realized its relation to his federal employment on June 30, 2023.

In a statement dated July 11, 2023, appellant related that prior to the onset of his pain on June 30, 2023 he had been “driving around the district for several long days on bumpy roads and out in the extreme heat looking at units and patrolling the district.” He had no previous history of a kidney stone. Appellant related that on June 29, 2023 a call came in about a report of smoke about two and a half hours away. When he and his coworkers arrived at the location it was dark, so they slept on the hard ground. Appellant woke up with back pain. He and his coworkers drove around searching for smoke. They found the fire and walked towards it. Appellant’s pain increased to the point that his supervisor sent ground and air transport. A helicopter transported him for medical care, where he was diagnosed with a kidney stone and urinary tract infection.

In a development letter dated July 13, 2023, OWCP informed appellant of the deficiencies of his claim. It advised him of the type of factual and medical evidence needed and afforded him 60 days to submit the necessary evidence. In a separate letter of even date, OWCP requested that the employing establishment provide additional information, including comments from a knowledgeable supervisor. It afforded the employing establishment 30 days to respond.

Subsequently, OWCP received records regarding appellant’s treatment at the emergency department on June 30, 2023. Dr. Bradley J. Campbell, an osteopath, related a history of appellant experiencing sudden back pain after sleeping on the ground while fighting a fire. He diagnosed a urinary tract infection and a kidney stone.

On July 31, 2023 Dr. G. Michael Lopez, a Board-certified internist, discussed appellant’s history of sudden pain in his flank on the right side while fire fighting in a remote area. He noted that he had received a diagnosis in the emergency department of a renal stone and urinary tract infection. Dr. Lopez noted that before this occurred appellant “had been unable to consume sufficient fluids while fighting the forest fire.” He diagnosed a history of calculus of the kidney without recurrence, and a resolved urinary tract infection.

In a statement dated August 3, 2023, U.P., appellant’s supervisor, concurred with appellant’s statement of events. She noted that he had worked “extended days and hours in remote locations” due to fire activity. U.P. indicated that appellant was working on an active fire on the date of injury.

In correspondence dated August 15, 2023, OWCP advised appellant that the evidence currently of record was insufficient to establish his claim as there was no evidence supporting causal relationship between a diagnosed condition and the June 30, 2023 work incident. It requested that he submit additional medical evidence within 60 days of its July 13, 2023 development letter.

In an attending physician’s report (Form CA-20) dated August 23, 2023, Dr. Lopez diagnosed a renal stone due to dehydration. He checked a box marked “Yes” that the condition

was caused or aggravated by employment, and provided as a rationale that dehydration due to heat and fighting fires had aggravated his conditions.

By decision dated September 14, 2023, OWCP denied appellant's occupational disease claim. It found that he had failed to submit medical evidence sufficient to establish causation between a diagnosed medical condition and the accepted employment factors.

On October 6, 2023 Dr. Lopez advised that he had treated appellant on July 31, 2023 after he received treatment in the emergency department for a urinary tract infection, dehydration, and renal stones. He related, "Lack of hydration and warm temperatures can contribute to renal stones and urinary tract infections. The fact that [appellant] is a firefighter and was in a dry, rugged area increased the risk for renal stones, dehydration and a urinary tract infection, as well as not having the opportunity to take frequent breaks to urinate."

On October 23, 2023 appellant requested reconsideration.

By decision dated October 25, 2023, OWCP denied modification of its September 14, 2023 decision.

On November 14, 2023 appellant requested reconsideration and resubmitted the October 6, 2023 report from Dr. Lopez.

By decision dated December 14, 2023, OWCP denied appellant's request for reconsideration of the merits of his claim, pursuant to 5 U.S.C. § 8128(a).

### **LEGAL PRECEDENT -- ISSUE 1**

An employee seeking benefits under FECA<sup>2</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 filed within the applicable time limitation period of FECA,<sup>3</sup> that an injury was sustained while in the performance of duty as alleged, and that any disability or specific condition for which compensation is claimed is causally related to the employment injury.<sup>4</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>5</sup>

In an occupational disease claim, appellant's burden of proof requires submission of 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

---

<sup>2</sup> *Supra* note 1.

<sup>3</sup> *S.M.*, Docket No. 21-0937 (issued December 21, 2021); *S.B.*, Docket No. 17-1779 (issued February 7, 2018); *J.P.*, 59 ECAB 178 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

<sup>4</sup> *R.W.*, Docket No. 23-0527 (issued December 29, 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).

<sup>5</sup> *M.T.*, Docket No. 20-1814 (issued June 24, 2022); *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).

claimed; and (3) medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the employee.<sup>6</sup>

Causal relationship is a medical issue, and the medical evidence required to establish causal relationship is rationalized medical opinion evidence.<sup>7</sup> 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.<sup>8</sup>

### *ANALYSIS -- ISSUE 1*

The Board finds that appellant has not met his burden of proof to establish kidney stones, a urinary tract infection, and dehydration causally related to the accepted factors of federal employment.

In an August 23, 2023 Form CA-20, Dr. Lopez diagnosed a renal stone due to dehydration. He checked a box marked “Yes” that the condition was caused or aggravated by employment, finding that exposure to heat and fighting fires had aggravated appellant’s condition. The Board has held, however, that a medical opinion must explain how the implicated employment factors physiologically caused, contributed to, or aggravated the specific diagnosed conditions.<sup>9</sup> Dr. Lopez failed to explain the physiological mechanism by which the accepted employment factors caused or aggravated the diagnosed conditions. Consequently, his report is insufficient to establish causal relationship.

In an October 6, 2023 report, Dr. Lopez indicated that he had treated appellant on July 31, 2023 for renal stones, dehydration, and a urinary tract infection. He advised that inadequate hydration and warm temperatures could contribute to both renal stones and a urinary tract infection. Dr. Lopez asserted that appellant’s work as a firefighter in a dry and rugged area and the lack of opportunities for frequent urination breaks increased his risk for the diagnosed conditions. However, while he found that heat and lack of adequate fluid intake could contribute to the diagnosed conditions, and that appellant’s work factors increased his risk of the conditions, he did not provide a definite and reasoned finding that the diagnosed conditions resulted from the identified employment factors. Dr. Lopez’ report thus lacks the definite, persuasive quality needed to meet appellant’s burden of proof to establish an employment-related condition.<sup>10</sup> As such, his report is of limited probative value and insufficient to meet appellant’s burden of proof.

---

<sup>6</sup> *G.J.*, Docket No. 23-0577 (issued August 28, 2023); *S.C.*, Docket No. 18-1242 (issued March 13, 2019); *R.H.*, 59 ECAB 382 (2008).

<sup>7</sup> *K.R.*, Docket No. 21-0822 (issued June 28, 2022); *A.M.*, Docket No. 18-1748 (issued April 24, 2019); *T.H.*, 59 ECAB 388 (2008).

<sup>8</sup> *G.S.*, Docket No. 22-0036 (issued June 29, 2022); *M.V.*, Docket No. 18-0884 (issued December 28, 2018); *I.J.*, 59 ECAB 408 (2008).

<sup>9</sup> *L.B.*, Docket No. 23-0961 (issued December 15, 2023); *S.C.*, Docket No. 20-0492 (issued May 6, 2021); *R.S.*, Docket No. 19-1774 (issued April 3, 2020).

<sup>10</sup> *R.C.*, Docket No. 18-0546 (issued November 14, 2018); *K.W.*, Docket No. 17-1961 (issued March 28, 2018).

In a July 31, 2023 report, Dr. Lopez noted that appellant had experienced the sudden onset of right flank pain fighting fire in a remote area. He indicated that appellant had not consumed sufficient liquids to maintain adequate hydration while fighting the forest fire. Dr. Lopez diagnosed a history of calculus of the kidney without recurrence, and a resolved urinary tract infection. He did not, however, specifically relate the diagnosed conditions to appellant's work fighting fires. 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.<sup>11</sup> This evidence is therefore insufficient to establish the claim.

Dr. Campbell evaluated appellant on June 30, 2023 at the emergency department. He noted that he had experienced sudden back pain in the morning after sleeping on the ground while working a fire. Dr. Campbell diagnosed a urinary tract infection and a kidney stone. He did not, however, address the cause of the diagnosed conditions and thus, as noted, his opinion is of no probative value on the issue of causal relationship.<sup>12</sup>

As the medical evidence of record is insufficient to establish a medical condition causally related to the accepted employment factors, 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.

### **LEGAL PRECEDENT -- ISSUE 2**

Section 8128(a) of FECA vests OWCP with discretionary authority to determine whether to review an award for or against compensation. The Secretary of Labor may review an award for or against compensation at any time on his own motion or on application.<sup>13</sup>

To require OWCP to reopen a case for merit review pursuant to FECA, the claimant must provide evidence or an argument which: (1) shows that OWCP erroneously applied or interpreted a specific point of law; (2) advances a relevant legal argument not previously considered by OWCP; or (3) constitutes relevant and pertinent new evidence not previously considered by OWCP.<sup>14</sup>

---

<sup>11</sup> See *M.M.*, Docket No. 19-0061 (issued November 21, 2019); *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

<sup>12</sup> *M.H.*, Docket No. 22-0710 (issued August 3, 2022); *J.H.*, Docket No. 20-1645 (issued August 11, 2021); *P.C.*, Docket No. 20-0855 (issued November 23, 2020).

<sup>13</sup> 5 U.S.C. § 8128(a); see *C.V.*, Docket No. 22-0078 (issued November 28, 2022); see also *V.P.*, Docket No. 17-1287 (issued October 10, 2017); *D.L.*, Docket No. 09-1549 (issued February 23, 2010); *W.C.*, 59 ECAB 372 (2008).

<sup>14</sup> 20 C.F.R. § 10.606(b)(3); see *K.D.*, Docket No. 22-0756 (issued November 29, 2022); see also *L.G.*, Docket No. 09-1517 (issued March 3, 2010); *C.N.*, Docket No. 08-1569 (issued December 9, 2008).

A request for reconsideration must be received by OWCP within one year of the date of OWCP's decision for which review is sought.<sup>15</sup> If it chooses to grant reconsideration, it reopens and reviews the case on its merits.<sup>16</sup> If the request is timely but fails to meet at least one of the requirements for reconsideration, OWCP will deny the request for reconsideration without reopening the case for review on the merits.<sup>17</sup>

### ANALYSIS -- ISSUE 2

The Board finds OWCP properly denied appellant's request for reconsideration of the merits of his claim, pursuant to 5 U.S.C. § 8128(a).

Appellant has not shown that OWCP erroneously applied or interpreted a specific point of law or advanced a relevant legal argument not previously considered by OWCP. Consequently, he is not entitled to a review of the merits of his claim based on the first and second above-noted requirements under 20 C.F.R. § 10.606(b)(3).<sup>18</sup>

In support of his request for reconsideration, appellant resubmitted Dr. Lopez' October 6, 2023 report, which was previously of record. The Board has held that evidence that duplicates evidence previously of record does not constitute a basis for reopening a case.<sup>19</sup> Therefore, appellant is not entitled to a merit review based on the third above-noted requirement under 20 C.F.R. § 10.606(b)(3).

The Board, accordingly, finds that appellant did not meet any of the requirements of 20 C.F.R. § 10.606(b)(3). Pursuant to 20 C.F.R. § 10.608, OWCP properly denied merit review.<sup>20</sup>

### CONCLUSION

The Board finds that appellant has not met his burden of proof to establish renal stones, a urinary tract infection, and dehydration causally related to the accepted factors of federal

---

<sup>15</sup> *Id.* at § 10.607(a). The one-year period begins on the next day after the date of the original contested decision. For merit decisions issued on or after August 29, 2011, a request for reconsideration must be received by OWCP within one year of OWCP's decision for which review is sought. Federal (FECA) Procedure Manual, Part 2 -- Claims, *Reconsiderations*, Chapter 2.1602.4 (February 2020). Timeliness is determined by the document receipt date of the request for reconsideration as indicated by the received date in the Integrated Federal Employees' Compensation System (iFECS). *Id.* at Chapter 2.1602.4b.

<sup>16</sup> *Id.* at § 10.608(a); *see also D.B.*, Docket No. 22-0518 (issued November 28, 2022); *F.V.*, Docket No. 18-0239 (issued May 8, 2020); *M.S.*, 59 ECAB 231 (2007).

<sup>17</sup> *Id.* at § 10.608(b); *Y.K.*, Docket No. 18-1167 (issued April 2, 2020); *E.R.*, Docket No. 09-1655 (issued March 18, 2010).

<sup>18</sup> 20 C.F.R. § 10.606(b)(3)(i) and (ii); *see also C.K.*, Docket No. 18-1019 (issued October 24, 2018).

<sup>19</sup> *See L.E.*, Docket No. 22-0004 (issued April 14, 2023); *C.B.*, Docket No. 22-0144 (issued March 16, 2023); *B.S.*, Docket No. 20-0927 (issued January 29, 2021); *Eugene F. Butler*, 36 ECAB 393, 398 (1984).

<sup>20</sup> *D.A.*, Docket No. 22-0762 (issued September 30, 2022); *T.G.*, Docket No. 20-0329 (issued October 19, 2020); *C.C.*, Docket No. 17-0043 (issued June 15, 2018).

employment. The Board further finds that OWCP properly denied his request for reconsideration of the merits of his claim, pursuant to 5 U.S.C. § 8128(a).

**ORDER**

**IT IS HEREBY ORDERED THAT** the September 14, October 25, and December 14, 2023 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: April 9, 2024  
Washington, DC

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

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

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