

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

_____)	
V.S., Appellant)	
)	
and)	Docket No. 23-0005
)	Issued: February 12, 2024
U.S. POSTAL SERVICE, MEMPHIS)	
PROCESSING & DISTRIBUTION CENTER,)	
Memphis, TN, 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 October 4, 2022 appellant filed a timely appeal from a July 26, 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

¹ 5 U.S.C. § 8101 *et seq.*

² The Board notes that, following the July 26, 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.*

ISSUE

The issue is whether appellant has met her burden of proof to establish a diagnosed medical condition in connection with the accepted April 1, 2022 employment incident.

FACTUAL HISTORY

On April 5, 2022 appellant, then a 36-year-old postal distributor, filed a traumatic injury claim (Form CA-1) alleging that on April 1, 2022 she sustained a blow to the head and bruised her stomach when she turned to go to a desk and a long wooden pole hit her in the back of her head, causing her to lose her balance and fall on the floor while in the performance of duty.³ She stopped work on April 2, 2022 and returned on April 5, 2022.

In a hospital summary report dated April 2, 2022, Dr. Amy K. Nelson, a Board-certified obstetrician and gynecologist, indicated that appellant was treated after a fall at work and complaints of tenderness on the front part of the torso. She noted that appellant was monitored for an hour with a fetal strip.

In a duty status report (Form CA-17) dated May 5, 2022, Dr. Nelson noted a date of injury of April 1, 2022 and diagnosis of post-traumatic headaches and abdominal pain. Appellant was advised not to work.

In a June 17, 2022 development letter, 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 afforded her 30 days to provide the necessary evidence.

On June 28, 2022 OWCP received an undated note by Dr. Sherri Li, a physician Board-certified in obstetrics and gynecology. It listed dates of appellant's examination and treatment and noted examination findings of back pain, headaches, cramps, and swelling. The note reported a diagnosis of obstetric trauma and recommended bed rest due to a fall at work.

Appellant submitted obstetrics triage orders dated April 2, 2022 and a list of medication history and prescriptions dated from November 7, 2008 through September 11, 2019.

By decision dated July 26, 2022, OWCP accepted that the April 1, 2022 employment incident occurred as alleged, but denied appellant's traumatic injury claim finding that the medical evidence of record did not contain a medical diagnosis in connection with the accepted employment incident. It concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

³ The record reflects that appellant was pregnant at the time of the incident.

LEGAL PRECEDENT

An employee seeking benefits under FECA⁴ 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 period of FECA,⁵ 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 that employment injury.⁶ 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.⁷

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.⁸ There are two components involved in establishing 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.⁹ Second, the employee must submit evidence to establish that the employment incident caused an injury.¹⁰

The medical evidence required to establish causal relationship between a claimed specific condition and an employment incident is rationalized medical opinion evidence.¹¹ 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 factors identified by the employee.¹²

⁴ *Supra* note 1.

⁵ *S.S.*, Docket No. 19-1815 (issued June 26, 2020); *S.B.*, Docket No. 17-1779 (issued February 7, 2018); *Joe D. Cameron*, 41 ECAB 153 (1989).

⁶ *M.H.*, Docket No. 19-0930 (issued June 17, 2020); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden Sr.*, 40 ECAB 312 (1988).

⁷ *S.A.*, Docket No. 19-1221 (issued June 9, 2020); *L.M.*, Docket No. 13-1402 (issued February 7, 2014); *Delores C. Ellyett*, 41 ECAB 992 (1990).

⁸ *S.P.*, 59 ECAB 184 (2007); *Alvin V. Gadd*, 57 ECAB 172 (2005).

⁹ *R.K.*, Docket No. 19-0904 (issued April 10, 2020); *Bonnie A. Contreras*, 57 ECAB 364 (2006); *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

¹⁰ *Y.D.*, Docket No. 19-1200 (issued April 6, 2020); *David Apgar*, 57 ECAB 137 (2005); *John J. Carlone*, 41 ECAB 354 (1989).

¹¹ *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).

¹² *T.L.*, Docket No. 18-0778 (issued January 22, 2020); *D.M.*, Docket No. 20-0386 (issued August 10, 2020); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

ANALYSIS

The Board finds that appellant has established diagnoses of post-traumatic headache and obstetric trauma in connection with the accepted April 1, 2022 employment incident.

In a Form CA-17 dated May 5, 2022, Dr. Nelson noted a date of injury of April 1, 2022 and diagnosis of post-traumatic headaches and abdominal pain. The evidence of record also contains an undated note by Dr. Li who provided examination findings and reported a diagnosis of obstetric trauma. The Board finds, therefore, that the reports by Dr. Nelson and Dr. Li are sufficient to establish diagnoses of post-traumatic headache and obstetric trauma.¹³

As the medical evidence of record establishes diagnosed medical conditions, the case must be remanded for consideration of the medical evidence with regard to the issue of causal relationship.¹⁴ Following this and other such further development as deemed necessary, OWCP shall issue a *de novo* decision.

CONCLUSION

The Board finds that appellant has met her burden of proof to establish diagnosed medical conditions in connection with the accepted April 1, 2022 employment incident.

¹³ See *E.T.*, Docket No. 22-1085 (issued January 18, 2023); *E.L.*, Docket No. 21-0587 (issued July 6, 2022); see also *T.C.*, Docket No. 17-0624 (issued December 19, 2017).

¹⁴ See *S.R.*, Docket No. 22-0453 (issued March 2, 2023); *S.A.*, Docket No. 20-1498 (issued March 11, 2021).

ORDER

IT IS HEREBY ORDERED THAT the July 26, 2022 decision of the Office of Workers' Compensation Programs is reversed and the case is remanded for further proceedings consistent with this decision of the Board.

Issued: February 12, 2024
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