

FACTUAL HISTORY

On July 31, 2022 appellant, then a 60-year-old police officer, filed a traumatic injury claim (Form CA-1) alleging that on July 21, 2022 he sustained Bell's Palsy due to stress after another police officer confronted him while in the performance of duty. He stopped work on July 22, 2022.

In a work status note dated August 1, 2022, Alicia Beck, a nurse practitioner, excused appellant from work through August 8, 2022, and noted that he could return to work on August 9, 2022.

In a letter dated August 2, 2022, A.D., a workers' compensation program specialist for the employing establishment, controverted appellant's claim. She indicated that appellant had not submitted witness statements or medical reports containing a medical diagnosis that was causally related to the alleged work incident.

In an August 3, 2022 development letter, OWCP informed appellant of the deficiencies of his claim. It advised him of the type of factual and medical evidence necessary to establish his claim and provided a questionnaire for his completion. OWCP afforded appellant 30 days to respond.

In a hospital patient summary report dated July 23, 2022, Dr. Scott Pfitzer, an emergency medicine specialist, recounted appellant's complaints of left eye pain and numbness to the left side of the face that started yesterday around 8:30 p.m. He reviewed appellant's diagnostic test results and diagnosed eye pain, left facial numbness, and Bell's Palsy. A hospital discharge instruction sheet also noted a diagnosis of Bell's Palsy.

Appellant underwent diagnostic testing results on July 23, 2022. A magnetic resonance imaging (MRI) scan of the brain/head showed no significant brain or head abnormality. A computerized tomography (CT) scan of the head demonstrated no acute intracranial abnormality.

OWCP received after visit summary reports dated July 26 and August 1, 2022, wherein Dr. Pfitzer indicated that appellant was treated for right hand pain and facial paralysis/Bell's Palsy.

By decision dated September 12, 2022, OWCP accepted that the July 21, 2022 employment incident occurred as alleged, but denied the claim, finding that the medical evidence of record was insufficient to establish causal relationship between appellant's diagnosed condition and the accepted July 21, 2022 employment incident.

Appellant subsequently submitted an August 11, 2022 report by Dr. Amit Arora, a neurologist, who indicated that on July 22, 2022 appellant experienced an abrupt onset of left facial drop. He had informed Dr. Arora that he had a confrontation with a coworker the previous day, and he thought that he may have experienced some mild left facial droop at night. Appellant noted that the following day, his wife noticed a significant facial droop and his inability to close his left eye. He reported that he went to the emergency room where diagnostic reports showed no acute abnormalities. On physical examination, Dr. Arora observed decreased facial sensation and weaknesses. He reported that he had concerns of cranial VII nerve palsy, likely secondary to Bell's Palsy. Dr. Arora recommended further evaluation.

OWCP also received additional diagnostic test reports. An August 24, 2022 brain and internal auditory canals MRI scan showed enhancement of portions of the left facial nerve and some fluid signal in the right petrous air cells.

A September 20, 2022 CT scan of the temporal bones revealed asymmetric pneumatization of the right petrous apex with associated nonexpansile fluid opacification, consistent with trapped fluid within the pneumatized air cells.

On November 4, 2022 appellant requested reconsideration. He alleged that his neurologist, Dr. Arora, informed him that the incident at work was the cause of his injury.

Appellant submitted a head magnetic resonance angiograph (MRA) report dated July 23, 2022, which demonstrated no significant abnormality.

By decision dated November 9, 2022, OWCP denied modification of its September 12, 2022 decision.

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 determine whether a federal employee has sustained a traumatic injury in the performance of duty, OWCP must first determine whether fact of injury has been established.⁶ 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. Second, the employee must submit probative medical evidence to establish that the employment incident caused an injury.⁷

² *Id.*

³ *F.H.*, Docket No. 18-0869 (issued January 29, 2020); *S.B.*, Docket No. 17-1779 (issued February 7, 2018); *Joe D. Cameron*, 41 ECAB 153 (1989).

⁴ *L.C.*, Docket No. 19-1301 (issued January 29, 2020); *J.M.*, Docket No. 17-0284 (issued February 7, 2018); *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); *L.M.*, Docket No. 13-1402 (issued February 7, 2014); *Delores C. Ellyett*, 41 ECAB 992 (1990).

⁶ *D.B.*, Docket No. 18-1348 (issued January 4, 2019); *S.P.*, 59 ECAB 184 (2007).

⁷ *T.H.*, Docket No. 19-0599 (issued January 28, 2020); *B.M.*, Docket No. 17-0796 (issued July 5, 2018); *David Apgar*, 57 ECAB 137 (2005); *John J. Carlone*, 41 ECAB 354 (1989).

To establish causal relationship between the condition, as well as any attendant disability claimed and the employment event or incident, the employee must submit rationalized medical opinion evidence.⁸ 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 the specific employment incident identified by the employee.⁹

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish Bell's Palsy causally related to the accepted July 21, 2022 employment incident.

Appellant submitted an August 11, 2022 report, wherein Dr. Arora related that appellant had a confrontation with a coworker and experienced facial droop and inability to close his left eye the following day. Dr. Arora provided examination findings and reported that he had concerns of cranial VII nerve palsy, likely secondary to Bell's Palsy. He, however, did not provide an opinion on the cause of appellant's diagnosed conditions. 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 Therefore, this report is insufficient to establish appellant's burden of proof.

Likewise, the hospital emergency room reports by Dr. Pfitzer are also insufficient to establish appellant's claim as they do not offer an opinion on causal relationship. As explained above, 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.¹¹ Therefore, these reports are insufficient to establish appellant's burden of proof.

Appellant also submitted an August 1, 2022 work status note from a nurse practitioner. The Board has held that certain healthcare providers such as nurse practitioners are not considered

⁸ *S.S.*, Docket No. 19-0688 (issued January 24, 2020); *S.A.*, Docket No. 18-0399 (issued October 16, 2018); *see also Robert G. Morris*, 48 ECAB 238 (1996).

⁹ *C.F.*, Docket No. 18-0791 (issued February 26, 2019); *M.V.*, Docket No. 18-0884 (issued December 28, 2018); *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 345 (1989).

¹⁰ *R.O.*, Docket No. 20-1243 (issued May 28, 2021); *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

¹¹ *Id.*; *see also K.R.*, Docket No. 21-0822 (issued June 28, 2022); *M.G.*, Docket No. 19-1863 (issued December 15, 2020).

physicians as defined under FECA.¹² Consequently, their medical findings and/or opinions will not suffice for purposes of establishing entitlement to FECA benefits.

The remaining evidence of record consists of diagnostic testing reports dated July 23, August 24, and September 20, 2022. The Board has held that reports of diagnostic tests, standing alone, lack probative value as they do not provide an opinion as to whether the accepted employment factors caused the diagnosed condition. For this reason, this evidence is not sufficient to meet his burden of proof.¹³

As the medical evidence of record is insufficient to establish Bell's Palsy causally related to the accepted July 21, 2022 employment incident, the Board finds that appellant has not met his burden of proof to establish his claim.

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 Bell's Palsy causally related to the accepted July 21, 2022 employment incident.

¹² Section 8102(2) of FECA provides as follows: (2) 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. § 8102(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 B.D.*, Docket No. 22-0503 (issued September 27, 2022 (nurse practitioners are not considered physicians as defined under FECA and their medical findings and/or opinions will not suffice for purposes of establishing entitlement to FECA benefits); *L.S.*, Docket No. 19-1231 (issued March 30, 2021) (nurse practitioners are not considered physicians as defined under FECA).

¹³ *V.Y.*, Docket No. 18-0610 (issued March 6, 2020); *G.S.*, Docket No. 18-1696 (issued March 26, 2019); *A.B.*, Docket No. 17-0301 (issued May 19, 2017).

ORDER

IT IS HEREBY ORDERED THAT the September 12 and November 9, 2022 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: January 9, 2024
Washington, DC

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

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

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