

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

A.K., Appellant	)	
	)	
and	)	<b>Docket No. 23-0990</b>
	)	<b>Issued: January 10, 2024</b>
U.S. POSTAL SERVICE, POST OFFICE,	)	
Tampa, FL, 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  
JANICE B. ASKIN, Judge  
VALERIE D. EVANS-HARRELL, Alternate Judge

**JURISDICTION**

On July 19, 2023 appellant filed a timely appeal from a March 21, 2023 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act<sup>1</sup> (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 her burden of proof to establish a diagnosed medical condition in connection with the accepted April 29, 2022 employment incident.

**FACTUAL HISTORY**

On May 6, 2022 appellant, then a 41-year-old rural carrier associate, filed a traumatic injury claim (Form CA-1) alleging that on April 29, 2022 she suffered a metallic taste, nausea, headache, dizziness and changes in her throat and voice following a spill inside her postal vehicle

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<sup>1</sup> 5 U.S.C. § 8101 *et seq.*

while in the performance of duty. She stopped work on April 30, 2022, and returned to work May 2, 2022.

Dr. Christopher L. Loutzenhiser, an osteopath Board-certified in family medicine, reported on April 29, 2022 that appellant's symptoms began while she was in her work vehicle that day. He set forth examination findings and reported that laboratory studies and chest x-ray were unremarkable. Dr. Loutzenhiser noted appellant's symptoms of dizziness, nausea, and acute nonintractable headache, and indicated that she was alleging possible chemical exposure at work. In an April 29, 2022 state workers' compensation medical form, he opined that it was undetermined whether appellant's illness/injury was work related. In an undated return to work note, Dr. Loutzenhiser advised that appellant was seen in the emergency department on April 29, 2022 and that she may return to work with no restrictions on May 2, 2022.

In a May 12, 2022 development letter, OWCP informed appellant that the evidence of record was insufficient to establish her claim. It advised her of the deficiencies in her claim and that further factual and medical information was necessary to support her claim. OWCP afforded appellant 30 days to submit the requested evidence.

OWCP received appellant's undated narrative statement further explaining the circumstances surrounding the April 29, 2022 incident, and a June 1, 2022 response to the development letter. It also received statements from appellant's coworkers which confirmed an unknown substance in appellant's postal vehicle.

Copies of appellant's April 29, 2022 emergency room visit including copies of her laboratory studies and information sheets on chemical inhalation injury and nausea, were also received.

In a May 11, 2022 report, Dr. Arno G. Loeffler, a family medicine specialist, noted the history of appellant's possible chemical exposure on April 29, 2022 and presented examination findings. He indicated that she appeared to be significantly improved although not asymptomatic. Dr. Loeffler diagnosed suspected exposure to hazardous chemicals and cough. He explained that it was difficult to ascertain to what degree appellant's symptoms were related to environmental allergies *versus* exposure to the unknown substance. In a May 11, 2022 state workers' compensation medical form, Dr. Loeffler opined with checkmarks that appellant's April 29, 2022 possible chemical exposure and cough were work related and that there was no preexisting condition contributing to the current medical disorder or exacerbation and/or aggravation of a preexisting condition. An information sheet on adult cough was provided.

In a May 17, 2022 report, Dr. Paul Fortier, an internist, reported a history of possible work-related chemical exposure on April 29, 2022. He noted examination findings, including a review of appellant's April 29, 2022 x-ray and laboratory studies, and diagnosed cough and suspected exposure to hazardous chemicals. In a May 17, 2022 state workers' compensation medical form, Dr. Fortier noted an April 29, 2022 date of accident and provided diagnoses of cough and suspected exposure to hazardous chemicals. He opined that appellant had achieved maximum medical improvement.

By decision dated June 21, 2022, OWCP accepted that the alleged incident occurred as described, but denied appellant's claim as she failed to establish that a medical condition was diagnosed in connection with the established employment incident. It concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

On November 17, 2022 appellant requested reconsideration. In a November 13, 2022 statement, she detailed her exposure and medical course and contended that the medical evidence supported a chemical inhalation condition. She submitted copies of medical evidence previously of record, including an April 29, 2022 chest x-ray which noted no acute abnormality.

By decision dated March 21, 2023, OWCP denied modification of its prior decision.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA 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 filed within the applicable time limitation period of FECA,<sup>2</sup> 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.<sup>3</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>4</sup>

To determine if an employee has sustained a traumatic injury in the performance of duty, OWCP begins with an analysis of whether fact of injury has been established. Fact of injury consists of two components that must be considered in conjunction with one another. The first component is whether the employee actually experienced the employment incident at the time and place, and in the manner alleged.<sup>5</sup> The second component is whether the employment incident caused an injury.<sup>6</sup>

Rationalized medical opinion evidence is required to establish causal relationship. 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.<sup>7</sup>

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<sup>2</sup> See *R.B.*, Docket No. 18-1327 (issued December 31, 2018); *J.P.*, 59 ECAB 178 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

<sup>3</sup> *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>4</sup> *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).

<sup>5</sup> *B.P.*, Docket No. 16-1549 (issued January 18, 2017); *Elaine Pendleton*, 40 ECAB 1143 (1989).

<sup>6</sup> *M.H.*, Docket No. 18-1737 (issued March 13, 2019); *John J. Carlone*, 41 ECAB 354 (1989).

<sup>7</sup> *S.S.*, Docket No. 18-1488 (issued March 11, 2019).

## ANALYSIS

The Board finds that appellant has not met her burden of proof to establish a diagnosed medical condition in connection with the accepted April 29, 2022 employment incident.

Dr. Loutzenhiser reported on April 29, 2022 that appellant had related a possible chemical exposure at work that day. He noted her symptoms of dizziness, nausea, and acute nonintractable headache. In a state workers' compensation medical form, of even date, Dr. Loutzenhiser opined that it was undetermined as to whether appellant's illness/injury was work related. He did not provide a firm medical diagnosis due to injury, but rather described appellant's symptoms.<sup>8</sup> The Board has consistently held dizziness,<sup>9</sup> nausea,<sup>10</sup> headache are symptoms and not compensable medical diagnoses.<sup>11</sup> Thus, these reports from Dr. Loutzenhiser's are insufficient to establish appellant's claim.

In a May 11, 2022 report, Dr. Loeffler diagnosed suspected exposure to hazardous chemicals and cough. He explained that it was difficult to ascertain to what degree her symptoms were related to environmental allergies *versus* exposure to the unknown substance. Dr. Loeffler then, in a May 11, 2022 state workers' compensation medical form, opined with checkmarks that appellant's April 29, 2022 possible chemical exposure and cough were work related. He also did not provide a firm diagnosis of a medical condition.<sup>12</sup> As Dr. Loeffler did not provide a firm diagnosis, his opinion is insufficient to meet appellant's burden of proof.<sup>13</sup>

In a May 17, 2022 report and in a May 17, 2022 state workers' compensation medical form, Dr. Fortier diagnosed cough and suspected exposure to hazardous chemicals. He did not provide a firm medical diagnosis.<sup>14</sup> Thus, Dr. Fortier's reports are insufficient to establish appellant's claim.

The April 29, 2022 emergency department notes did not contain a diagnosis in connection with the accepted April 29, 2022 employment incident. Thus, this evidence is insufficient to meet appellant's burden of proof.

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<sup>8</sup> *See M.V.*, Docket No. 18-0884 (issued December 28, 2018); *see also P.S.*, Docket No. 12-1601 (issued January 2, 2013); *C.F.*, Docket No. 08-1102 (issued October 10, 2008).

<sup>9</sup> *P.S.*, Docket No. 10-1560 (issued June 23, 2011).

<sup>10</sup> *See generally Thomas H. Booth*, 34 ECAB 865 (1983).

<sup>11</sup> *J.P.*, Docket No. 20-0381 (issued July 28, 2020); *S.L.*, Docket No. 19-1536 (issued June 26, 2020); *D.Y.*, Docket No. 20-0112 (issued June 25, 2020), *Deborah L. Beatty*, 54 ECAB 340 (2003). *See also Larry M. Leudtke*, Docket No. 03-1564 (issued September 2, 2003) (where the Board found that headache described a symptom and did not constitute a firm diagnosis of a medical condition).

<sup>12</sup> *See supra* note 8.

<sup>13</sup> *R.L.*, Docket No. 23-0098 (issued June 20, 2023); *A.S.*, Docket No. 19-1955 (issued April 9, 2020); *C.H.*, Docket No. 19-0409 (issued August 5, 2019).

<sup>14</sup> *See supra* note 8.

The remainder of the medical evidence, including the April 29, 2022 diagnostic tests, also failed to provide a firm diagnosis. For this reason, this evidence is insufficient to meet appellant's burden of proof.

As the medical evidence of record does not contain a firm diagnosis of a medical condition in connection with the accepted April 29, 2022 employment incident, the Board finds that appellant has not met her 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 her burden of proof to establish a diagnosed medical condition in connection with the accepted April 29, 2022 employment incident.

### **ORDER**

**IT IS HEREBY ORDERED THAT** the March 21, 2013 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: January 10, 2024  
Washington, DC

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

Janice B. Askin, Judge  
Employees' Compensation Appeals Board

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