

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

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**J.L., Appellant**

**and**

**U.S. POSTAL SERVICE, BROWERVILLE  
POST OFFICE, Browerville, MN, Employer**

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**Docket No. 24-0088  
Issued: March 5, 2024**

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

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

ALEC J. KOROMILAS, Chief Judge  
PATRICIA H. FITZGERALD, Deputy Chief Judge  
JAMES D. MCGINLEY, Alternate Judge

**JURISDICTION**

On November 9, 2023 appellant filed a timely appeal from a September 13, 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 to consider the merits of this case.<sup>2</sup>

**ISSUE**

The issue is whether appellant has met his burden of proof to establish a diagnosed medical condition in connection with the accepted factors of his federal employment.

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

<sup>2</sup> The Board notes that, following the September 13, 2023 decision, OWCP and the Board received additional evidence. 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.*

### **FACTUAL HISTORY**

On July 11, 2023 appellant, then a 51-year-old rural carrier, filed an occupational disease claim (Form CA-2) alleging that he had developed a bee allergy as a reaction to multiple bee stings which occurred on July 3, 2023 while in the performance of duty.<sup>3</sup> He noted that he first became aware of his condition and its relation to his federal employment on July 3, 2023. Appellant stopped work on July 3, 2023 and returned to work on July 5, 2023.

In a July 12, 2022 development letter, OWCP informed appellant of the deficiencies of his claim. It advised him of the type of factual and medical evidence needed to establish his claim and provided a factual questionnaire for his completion. In a development letter of even date, OWCP requested that the employing establishment provide additional information, including comments from a knowledgeable supervisor. It afforded both parties 60 days to submit the requested evidence.

On July 13, 2023 the employing establishment responded, acknowledged appellant's allegations, and reported that as a rural carrier he worked outside most of the day. It indicated that appellant had experienced an allergic reaction to bee stings.

Jodi I. Marohn, a certified nurse practitioner, completed a July 3, 2023 emergency room note relating that appellant had been stung by three bees while on his mail route on that date, and was complaining of itching hands. On physical examination, she observed that his skin was red and a rash was visible.

In an August 4, 2023 development letter, 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 from the July 12, 2023 development letter to provide the necessary information.

OWCP received an incomplete July 28, 2023 duty status report, (Form CA-17) bearing an illegible signature from an unidentifiable healthcare provider. Appellant's supervisor noted that he had been stung by bees on the right hand and left leg while delivering mail.

By decision dated September 13, 2023, OWCP denied appellant's claim, finding that the medical evidence of record was insufficient to establish 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.

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<sup>3</sup> The Board notes that as appellant attributed his condition to bee stings on July 3, 2023, this claim should have been developed by OWCP as a traumatic injury claim. *J.H.*, Docket No. 17-0826 (issued August 22, 2018); *S.S.*, Docket No. 16-0675 (issued July 15, 2016). OWCP defines a traumatic injury as, "[A] condition of the body caused by a specific event or incident, or series of events or incidents, within a single workday or shift. Such condition must be caused by external force, including stress or strain which is identifiable as to time and place of occurrence and member or function of the body affected." 20 C.F.R. § 10.5(ee).

## **LEGAL PRECEDENT**

An employee seeking benefits under FECA<sup>4</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 timely filed within the applicable time limitation of FECA,<sup>5</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>6</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>7</sup>

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. There are two components involved in establishing fact of injury. The first component is whether the employee actually experienced the employment incident at the time, place, and in the manner alleged. The second component is whether the employment incident caused a personal injury.<sup>8</sup>

The medical evidence required to establish causal relationship between a claimed specific condition and an employment incident is rationalized medical opinion evidence.<sup>9</sup> 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 incident identified by the employee.<sup>10</sup>

## **ANALYSIS**

The Board finds that appellant has met his burden of proof to establish bee stings causally related to the accepted July 3, 2023 employment incident.

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<sup>4</sup> *Supra* note 1.

<sup>5</sup> *C.O.*, Docket No. 23-0678 (issued September 28, 2023); *F.H.*, Docket No.18-0869 (issued January 29, 2020); *J.P.*, Docket No. 19-0129 (issued April 26, 2019); *Joe D. Cameron*, 41 ECAB 153 (1989).

<sup>6</sup> *L.C.*, Docket No. 19-1301 (issued January 29, 2020); *J.H.*, Docket No. 18-1637 (issued January 29, 2020); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

<sup>7</sup> *P.A.*, Docket No. 18-0559 (issued January 29, 2020); *K.M.*, Docket No. 15-1660 (issued September 16, 2016); *Delores C. Ellyett*, 41 ECAB 992 (1990).

<sup>8</sup> *V.C.*, Docket No. 23-0478 (issued August 7, 2023); *T.H.*, Docket No. 19-0599 (issued January 28, 2020); *K.L.*, Docket No. 18-1029 (issued January 9, 2019); *John J. Carlone*, 41 ECAB 354 (1989).

<sup>9</sup> *C.H.*, Docket No. 20-1212 (issued February 12, 2021); *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).

<sup>10</sup> *V.L.*, Docket No. 20-0884 (issued February 12, 2021); *T.L.*, Docket No. 18-0778 (issued January 22, 2020); *Y.S.*, Docket No. 18-0366 (issued January 22, 2020); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

OWCP's procedures provide that if a condition reported is a minor one, such as a burn, laceration, insect sting, or animal bite, which can be identified on visual inspection by a lay person, a case may be accepted without a medical report and no development of the case need be undertaken, if the injury was witnessed or reported promptly, and no dispute exists as to the occurrence of an injury, and no time was lost from work due to disability.<sup>11</sup>

Appellant alleged that on July 3, 2023 he sustained three bee stings on his right hand and left leg while delivering mail in the performance of duty. In support of his claim, he submitted a note dated July 3, 2023, wherein a certified nurse practitioner diagnosed three bee stings, observed a rash and redness on the skin, and advised that the diagnosed condition occurred during an employment activity. This diagnosis was consistent with appellant's physical examination and the mechanism of injury. As appellant has established that he sustained a visible injury, the Board finds that he has met his burden of proof to establish three bee stings causally related to the accepted employment incident.<sup>12</sup> The case will, therefore, be remanded for payment of medical expenses for his injury, to be followed by a *de novo* decision regarding any attendant disability.<sup>13</sup>

### **CONCLUSION**

The Board finds that appellant has met his burden of proof to establish bee stings causally related to the accepted July 3, 2023 employment incident.

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<sup>11</sup> Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.800.6a (June 2011). *See also* Chapter 2.805.3c (January 2013); *C.S.*, Docket No. 21-0560 (issued July 13, 2023); *A.J.*, Docket No. 19-1289 (issued December 31, 2019).

<sup>12</sup> *Id.*

<sup>13</sup> *See V.C.*, *supra* note 8; *C.S.*, *supra* note 11; *S.P.*, Docket No. 23-0036 (issued July 10, 2023); *S.C.*, Docket No. 21-0929 (issued April 28, 2023).

**ORDER**

**IT IS HEREBY ORDERED THAT** the September 13, 2023 decision of the Office of Workers' Compensation Programs is reversed. The case is remanded for further proceedings consistent with this decision.

Issued: March 5, 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