

¹ 5 U.S.C. § 8101 *et seq.*

FACTUAL HISTORY

On September 23, 2024 appellant, then a 40-year-old nurse, filed a traumatic injury claim (Form CA-1) alleging that on September 20, 2024 she sustained injuries to her throat and arm when a patient struck her while in the performance of duty. She stopped work on September 20, 2024.

OWCP received a September 20, 2024 emergency department report, wherein Dr. David W. Osborne, Board-certified in emergency medicine, related that appellant was assaulted and punched in the throat at work one hour prior. On examination, Dr. Osborne observed mild tenderness over the left anterior neck without hematoma or mass. He diagnosed left anterior neck blunt trauma. Dr. Osborne held appellant off work.

In a September 23, 2024 report, Dr. Meera Simoes, Board-certified in obstetrics and gynecology, related a history of the claimed September 20, 2024 employment incident. On examination, she observed tenderness to light palpation of the left of the thyroid cartilage and trachea. Dr. Simoes diagnosed “[i]njury to neck after physical assault by a patient.” She held appellant off work through September 25, 2024 pending a follow-up examination.

In a September 30, 2024 development letter, OWCP informed appellant of the deficiencies of her claim. It advised her of the type of factual and medical evidence needed to establish her claim and afforded her 60 days to submit the necessary evidence.

Thereafter, OWCP received a September 26, 2024 report, wherein Dr. Simoes indicated that the September 20, 2024 “punch to left of trachea with subsequent pain and sore throat” had resolved. She returned appellant to full duty.

In a follow-up letter dated October 29, 2024, OWCP advised appellant that it had conducted an interim review, and the evidence remained insufficient to establish her claim. It noted that she had 60 days from the September 30, 2024 letter to submit the necessary evidence. OWCP further advised that if the evidence was not received during this time, it would issue a decision based on the evidence contained in the record. No additional evidence was received.

By decision dated December 2, 2024, OWCP accepted that the September 20, 2024 employment incident occurred, as alleged. However, it 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. Consequently, OWCP found that she had not met the requirements to establish an injury as defined by FECA.

On January 3, 2025 OWCP received, *via* the Employees’ Compensation Operations & Management Portal (ECOMP), appellant’s request for a review of the written record by a representative of OWCP’s Branch of Hearings and Review.

Appellant subsequently submitted additional medical evidence, including a September 20, 2024 carotid angiography study, which revealed no occlusion or obvious arterial dissection, and a September 20, 2024 emergency department discharge summary, wherein Steven J. Pechie, a registered nurse, diagnosed a neck contusion.

By decision dated January 29, 2025, OWCP denied appellant's request for a review of the written record, finding that she was not entitled to a review of the written record as a matter of right as her request was untimely filed. It further exercised its discretion, but found that the case could equally well be addressed by requesting reconsideration and submitting new evidence.

LEGAL PRECEDENT -- ISSUE 1

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, it first must be determined whether fact of injury has been established. 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. The second component is whether the employment incident caused an injury.⁶

The medical evidence required to establish a causal relationship between a claimed specific condition and an employment incident is rationalized medical opinion evidence.⁷ 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 claimant.⁸

² *Id.*

³ *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).

⁴ *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).

⁵ *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).

⁶ *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).

⁷ *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).

⁸ *R.H.*, Docket No. 25-0188 (issued January 31, 2025); *A.S.*, Docket No. 19-1955 (issued April 9, 2020); *Leslie C. Moore*, 52 ECAB 132 (2000).

ANALYSIS -- ISSUE 1

The Board finds that appellant has met her burden of proof to establish a diagnosed medical condition in connection with the accepted September 20, 2024 employment incident.

In support of her claim, appellant submitted a September 20, 2024 report, wherein Dr. Osborne related that the appellant was assaulted and punched in the throat at work one hour prior and diagnosed left anterior neck blunt trauma. The Board thus finds that appellant has established a diagnosed medical condition in the form of left anterior neck blunt trauma.⁹ Consequently, the case must be remanded for consideration of the medical evidence as to whether appellant has met her burden of proof to establish that her diagnosed medical condition is causally related to the accepted September 20, 2024 employment incident. Following this and other such further development as deemed necessary, OWCP shall issue a *de novo* decision on the issue of causal relationship.¹⁰

CONCLUSION

The Board finds that this case is not in posture for decision.

⁹ G.K., Docket No. 24-0012 (issued March 26, 2024).

¹⁰ In light of the Board's disposition of Issue 1, Issue 2 is rendered moot.

ORDER

IT IS HEREBY ORDERED THAT the December 2, 2024 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. The January 29, 2025 decision of the Office of Workers' Compensation Programs is set aside as moot.

Issued: April 8, 2025
Washington, DC

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

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

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