United States Department of Labor
Employees' Compensation Appeals Board

M.T., Appellant	)	
and	)	**Docket No. 25-0358**
	)	**Issued: April 7, 2025**
U.S. POSTAL SERVICE, RICHMOND POST OFFICE, Richmond, TX, 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 February 3, 2025 appellant filed a timely appeal from January 22, 2025 merit decisions of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act[1] (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 January 22, 2025 decisions, OWCP received additional evidence. 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.*

ISSUES

The issues are: (1) whether appellant has met her burden of proof to establish entitlement to continuation of pay (COP); and (2) whether appellant met her burden of proof to establish a left ankle condition causally related to the accepted June 15, 2024 employment injury.

FACTUAL HISTORY

On August 9, 2024 appellant, then a 44-year-old mail clerk, filed a traumatic injury claim (Form CA-1) alleging that on June 15, 2024 her left eye and left leg were injured when a co-worker threw a piece of mail which struck her eye. She further alleged that she twisted her left ankle and sustained torn tendons when she stepped in a hole while leaving a restroom in the performance of duty. Appellant stopped work on June 15, 2024.

In an August 23, 2023 development letter, OWCP advised appellant of the deficiencies of her claim and requested additional factual and medical evidence. It afforded her 60 days to respond.

OWCP subsequently received a July 2, 2024 x-ray report of appellant's left ankle, which noted no fracture or dislocation, intact ankle mortise, and moderate diffuse subcutaneous edema about the ankle.

In an August 2, 2024 physician certification form, Dr. Ngozi Okorafor, a Board-certified family medicine physician, provided work restrictions noting an injury/fall affecting the left ankle.

By decision dated October 25, 2024, OWCP denied appellant's claim finding that she failed to establish the June 15, 2024 incident occurred, as alleged. It concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

On October 30, 2024 appellant requested an oral hearing before a representative of OWCP's Branch of Hearings and Review.

In a narrative statement dated November 26, 2024, appellant explained that on June 15, 2024 she was working outside in a tent at the employing establishment throwing mail when she was struck in the eye by a piece of mail. She immediately went to the restroom and was walking back to the tent when she was blinded by the sun, and she stepped into a hole.

OWCP received medical documentation regarding appellant's eye care as of June 15, 2024.

In progress notes signed on January 13, 2025, Dr. Stephen A. Nevins, podiatrist, related that appellant was seen for left ankle pain. On physical examination he reported pain with compression of the medial malleolus, intact lower extremity sensorium/proprioception, no open lesions noted, and soft and supple skin. Under assessment, Dr. Nevins related "rule out left ankle deltoid sprain." He stated that appellant twisted her ankle at work last July.

Following a preliminary review, by a decision dated January 15, 2025, OWCP's hearing representative reversed the October 25, 2024 decision in part, finding the evidence sufficient to

establish that the June 15, 2024 incident occurred, as alleged. The hearing representative also found that the evidence of record established microbial keritits of the left eye, causally related to the accepted employment incident. The hearing representative remanded the case for OWCP to review the medical evidence pertaining to appellant's alleged left ankle condition. The hearing representation also instructed OWCP to issue a formal decision regarding appellant's entitlement to COP.

By decision dated January 22, 2025, OWCP denied appellant's claim for a left ankle condition, finding that she failed to submit any medical evidence containing a medical diagnosis in connection with the accepted June 15, 2024 employment injury. It also noted that pain was a symptom and not a diagnosis of a medical condition.

In a separate decision also dated January 22, 2025, OWCP denied appellant's claim for COP, finding that she had not reported her injury on an OWCP-approved form within 30 days of the accepted June 15, 2024 employment injury. It advised her that the denial of COP did not affect her entitlement to compensation, and that she could, therefore, file a claim for compensation (Form CA-7) for lost wages due to her accepted employment injury.

LEGAL PRECEDENT -- ISSUE 1

Section 8118(a) of FECA authorizes COP, not to exceed 45 days, to an employee who has filed a claim for a period of wage loss due to a traumatic injury with his or her immediate superior on a form approved by the Secretary of Labor within the time specified in section 8122(a)(2) of this title.[3] This latter section provides that written notice of injury shall be given within 30 days.[4] The context of section 8122 makes clear that this means within 30 days of the injury.[5]

OWCP's regulations provide, in pertinent part, that to be eligible for COP, an employee must: (1) have a traumatic injury which is job related and the cause of the disability and/or the cause of lost time due to the need for medical examination and treatment; (2) file Form CA-1 within 30 days of the date of the injury (if that form is not available, using another form would not alone preclude receipt); and (3) begin losing time from work due to the traumatic injury within 45 days of the injury.[6]

ANALYSIS -- ISSUE 1

The Board finds that appellant has not met her burden of proof to establish entitlement to COP.

The record reflects that appellant filed written notice of her traumatic injury on a Form CA-1 on August 9, 2024, alleging that on June 15, 2024 she sustained a left eye injury while in the

[3] 5 U.S.C. § 8118(a).

[4] *Id.* at § 8122(a)(2).

[5] *A.M.*, Docket No. 25-0162 (issued January 24, 2025); *C.B.,* Docket No. 23-1035 (issued June 5, 2024); *E.M.,* Docket No. 20-0837 (issued January 27, 2021); *J.S.,* Docket No. 18-1086 (issued January 17, 2019); *Robert M. Kimzey,* 40 ECAB 762-64 (1989); *Myra Lenburg,* 36 ECAB 487, 489 (1985).

performance of duty. She stopped work on June 15, 2024. As previously noted, OWCP's regulations provide that a Form CA-1 must be filed within 30 days of the date of the injury.[6] As appellant filed her Form CA-1 on August 9, 2024, more than 30 days after the June 15, 2024 date of injury, the Board finds that she has not met her burden of proof.[7] Accordingly, appellant has not met her burden of proof to establish entitlement to COP.

LEGAL PRECEDENT -- ISSUE 2

An employee seeking benefits under FECA[8] 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,[9] 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.[10] 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.[11]

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. 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 sufficient evidence to establish that the employment incident caused an injury.[12]

The medical evidence required to establish a causal relationship is rationalized medical opinion evidence.[13] 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

[6] 20 C.F.R. § 10.205(a) (1-3); *see also C.B., id.*; T.S., Docket No. 19-1228 (issued December 9, 2019); *J.M.*, Docket No. 09-1563 (issued February 26, 2010); *Dodge Osborne*, 44 ECAB 849 (1993); *William E. Ostertag*, 33 ECAB 1925 (1982).

[7] *See D.M.,* Docket No. 23-0108 (issued July 11, 2023).

[8] *Supra* note 1.

[9] *See D.M.*, Docket No.24-0813 (issued September 18, 2024); *Y.S.,* Docket No. 22-1142 (issued May 11, 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).

[10] *D.M.*, *id.*; *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).

[11] *D.M.*, *id.*; *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).

[12] *D.M.*, *id.*; *T.J.,* Docket No. 19-0461 (issued August 11, 2020); *K.L.,* Docket No. 18-1029 (issued January 9, 2019); *John J. Carlone,* 41 ECAB 354 (1989).

[13] *D.M.*, *id.*; *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).

by medical rationale explaining the nature of the relationship between the diagnosed condition and specific employment incident identified by the employee.[14]

ANALYSIS -- ISSUE 2

The Board finds that appellant has not met her burden of proof to establish a left ankle condition causally related to the June 15, 2024 employment injury.

Appellant submitted progress notes signed on January 13, 2025 from Dr. Nevins, who noted that appellant had twisted her ankle at work last July. Dr. Nevins related appellant was seen for left ankle pain. Under assessment, he related "rule out left ankle deltoid sprain." The Board has held that pain alone is a symptom, not a medical diagnosis.[15] Findings of pain or discomfort alone do not satisfy the medical aspect of the fact of injury medical determination.[16] Dr. Nevins report was therefore insufficient to establish a firm diagnosis causally related to the accepted employment injury.[17]

In an August 2, 2024 form report, Dr. Okorafor recounted a fall or injury impacting appellant's left ankle. He also noted appellant's work restrictions. Dr. Okorafor did not, however, provide a specific diagnosis of a medical condition or an opinion on causation. As previously noted, a medical report lacking a firm diagnosis causally related to the accepted employment incident is of no probative value.[18] Therefore, this evidence is insufficient to establish the claim.

The record also contains a July 2, 2024 x-ray. The Board has held that diagnostic reports, standing alone, lack probative value on the issue of causal relationship, as they do not provide an opinion as to whether the accepted employment incident caused a diagnosed condition.[19] Consequently, this evidence is insufficient to establish appellant's claim.

As the medical evidence of record is insufficient to establish a diagnosed left ankle condition in connection with the accepted June 15, 2024 employment injury, the Board finds that she has not met her burden of proof.

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[14] *D.M.*, *id.*; *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).

[15] *P.V.*, Docket No. 25-3011 (issued February 27, 2025); *D.R.,* Docket No. 18-1408 (issued March 1, 2019); *D.A.,* Docket No. 18-0783 (issued November 8, 2018).

[16] Findings of pain or discomfort alone do not satisfy the medical aspect of the fact of injury medical determination. Federal (FECA) Procedure Manual, Part 2 -- Claims, *Fact of Injury*, Chapter 2.803.4a(6) (November 2023).

[17] *A.R.*, Docket No. 19-1560 (issued March 2, 2020); *V.B.*, Docket No. 19-0643 (issued September 6, 2019).

[18] *J.P.*, Docket No. 20-0381 (issued July 28, 2020); *R.L.*, Docket No. 20-0284 (issued June 30, 2020).

[19] *J.M.*, Docket No. 24-0933 (issued October 23, 2024); *W.L.,* Docket No. 20-1589 (issued August 26, 2021); *A.P.,* Docket No. 18-1690 (issued December 12, 2019).

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 entitlement to COP. The Board also finds that appellant has not met her burden of proof to establish a left ankle condition causally related to the accepted June 15, 2024 employment injury.

ORDER

IT IS HEREBY ORDERED THAT the January 22, 2025 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: April 7, 2025
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