

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

M.L., Appellant)
and) Docket No. 25-0659
DEPARTMENT OF HOMELAND SECURITY,)
U.S. CUSTOMS AND BORDER PROTECTION,)
CASA GRANDE BORDER PATROL STATION,)
Casa Grande, AZ, Employer)
Issued: August 18, 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

JANICE B. ASKIN, Judge

VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On June 4, 2025 appellant filed a timely appeal from an April 29, 2025 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act¹ (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 met his burden of proof to establish a medical diagnosis in connection with the accepted February 16, 2024 employment incident.

¹ 5 U.S.C. § 8101 *et seq.*

FACTUAL HISTORY

On March 16, 2024 appellant, then a 35-year-old border patrol agent, filed a traumatic injury claim (Form CA-1) alleging that on February 16, 2024 he sustained a neck strain when performing physical therapy exercises while in the performance of duty.²

In a development letter dated March 20, 2024, OWCP informed appellant that the evidence of record was insufficient to establish his claim. It noted that no evidence accompanied his claim and advised him as to the factual and medical evidence required to establish his claim. OWCP provided a questionnaire for completion and afforded appellant 60 days to provide the requested evidence.

In a March 28, 2024 report, Dr. Thomas C. Fiel, an osteopathic Board-certified sports medicine physician, recounted a history of appellant's injuries and provided physical examination findings. Appellant related neck pain following physical therapy exercises on February 16, 2024 for right shoulder fracture/dislocation. On physical examination appellant's findings were noted as negative Spurling, paraspinal tenderness greater on the right side than the left with palpable taut muscle bands, and a suggestion of splenius muscle strain. Diagnoses included cervicalgia and other muscle spasms.

In a state workers' compensation form report also dated March 28, 2024, Christopher Johnson, a certified physician assistant, diagnosed cervicalgia and history of right shoulder dislocation/fracture. He noted a February 16, 2024 injury date and reported examination findings of taut muscle bands and paraspinal cervical tenderness.

In an April 17, 2024 state workers' compensation form report, Sarah Hanson, a certified family nurse practitioner, diagnosed cervicalgia. She noted a May 26, 2023 injury date and a history of shoulder dislocation/fracture. In a narrative report of even date, Ms. Hanson recounted that appellant strained his neck while undergoing physical therapy for an employment-related right shoulder injury. Appellant's physical examination revealed negative Spurling, paraspinal tenderness greater on the right side than the left with palpable taut muscle bands. Diagnoses included cervicalgia and other muscle spasms.

In an April 25, 2024 note, Mr. Johnson advised that appellant was seen that day. He reported that appellant had no functional neck limitations and was cleared to return to light-duty work with lifting restrictions.

In a follow-up letter dated May 2, 2024, OWCP advised appellant that it had conducted an interim review and the evidence remained insufficient to establish his claim. It noted that he had 60 days from the March 20, 2024 letter to submit the necessary evidence. OWCP further advised that if the necessary evidence was not received during this time, it would issue a decision based on the evidence contained in the record.

² OWCP assigned the present claim OWCP File No. xxxxxx504. Under OWCP File No. xxxxxx134, OWCP accepted right humerus anterior dislocation and right shoulder displaced scapula glenoid cavity fracture due to a May 26, 2023 employment injury.

OWCP subsequently received an April 25, 2024 report from Mr. Johnson noting that appellant was seen for neck pain on February 16, 2024 after performing physical therapy for a work-related right shoulder injury. He diagnosed cervicalgia and other muscle spasms.

A note dated May 10, 2024, Dr. Fiel related that appellant reported neck pain from physical therapy for an employment-related right shoulder injury.

By decision dated June 3, 2024, OWCP denied appellant's claim finding the evidence insufficient to establish that he sustained an injury in the performance of duty on February 16, 2024, as alleged.

On June 13, 2024 appellant, through a representative, requested an oral hearing before an OWCP hearing representative.

Following a preliminary review, by decision dated July 9, 2024 OWCP's hearing representative determined that the issue should be whether appellant sustained a consequential neck injury on February 16, 2024, causally related to the accepted May 26, 2023 employment injury under OWCP File No. xxxxxx134. The hearing representative set aside OWCP's June 3, 2024 decision and remanded the case to enable OWCP to administratively combine OWCP File No. xxxxxx134, regarding the right shoulder condition, with the current file, OWCP File No. xxxxxx504, regarding the claimed neck injury, and determine whether appellant's neck injury was a consequence of the right shoulder condition. Following any necessary further development, the hearing representative instructed OWCP to issue an appropriate decision.

Upon return of the case record, OWCP administratively combined the current claim, OWCP File No. xxxxxx504, and OWCP File No. xxxxxx134, with the latter serving as the master file.

By *de novo* decision dated November 6, 2024, OWCP denied appellant's claim finding that the medical evidence of record did not 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.

On November 7, 2024 appellant requested an oral hearing before a representative of OWCP's Branch of Hearings and Review. OWCP converted appellant's request to a request for a review of the written record.

In a March 31, 2025 state workers' compensation form report, Dr. Fiel noted a February 16, 2024 injury date and related that the injury occurred while undergoing physical therapy. He diagnosed neck muscle strain and history of right shoulder dislocation/fracture. Physical examination findings included paraspinal cervical tenderness and taut muscle bands.

By decision dated April 29, 2025, OWCP's hearing representative affirmed the November 6, 2024 OWCP decision, finding there was no firm medical diagnosis from a physician.

LEGAL PRECEDENT

An employee seeking benefits under FECA³ 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,⁴ 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.⁵ 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.⁶

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 that 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 that the employee must establish whether the employment incident caused an injury.⁷

The medical evidence required to establish causal relationship between a claimed specific condition and an employment incident is 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 specific employment incident.⁹

ANALYSIS

The Board finds that appellant has met his burden of proof to establish a diagnosed medical condition in connection with the accepted February 16, 2024 employment incident.

³ *Supra* note 1.

⁴ *D.M.*, Docket No. 25-0506 (issued June 23, 2025); *E.K.*, Docket No. 22-1130 (issued December 30, 2022); *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).

⁵ *D.M.*, *id.*; *L.C.*, Docket No. 19-1301 (issued January 29, 2020); *J.H.*, Docket No. 18-1637 (issued January 29, 2020); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

⁶ *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).

⁷ *D.M.*, *id.*; *T.H.*, Docket No. 19-0599 (issued January 28, 2020); *K.L.*, Docket No. 18-1029 (issued January 9, 2019); *John J. Caralone*, 41 ECAB 354 (1989).

⁸ *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).

⁹ *D.M.*, *id.*; *F.S.*, Docket No. 23-0112 (issued April 26, 2023); *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).

In support of his claim, appellant submitted a March 31, 2025 state workers' compensation form report, wherein Dr. Fiel noted an injury date of February 16, 2024 and a diagnosis neck muscle strain. The Board thus finds that appellant has established a diagnosis of neck muscle strain in connection with the February 16, 2024 employment incident.¹⁰ Consequently, the case must be remanded for consideration of the medical evidence as to whether appellant has met his burden of proof to establish that his diagnosed medical condition is causally related to the accepted February 16, 2024 employment incident. Following this and other such further development as deemed necessary, it shall issue a *de novo* decision on the issue of causal relationship.

CONCLUSION

The Board finds that appellant has met his burden of proof to establish a diagnosed medical condition in connection with the accepted February 16, 2024 employment incident.

ORDER

IT IS HEREBY ORDERED THAT the April 29, 2025 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.

Issued: August 18, 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

¹⁰ *D.M., id.; G.K.*, Docket No. 24-0012 (issued March 26, 2024).