

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

J.D., Appellant)
and) Docket No. 25-0262
DEPARTMENT OF VETERANS AFFAIRS,) Issued: December 16, 2025
GREENVILLE VA HEALTHCARE CENTER,)
Greenville, NC, Employer)

)

Appearances:

Debra Hauser, Esq., for the appellant¹
Office of Solicitor, for the Director

Case Submitted on the Record

Before:

ALEC J. KOROMILAS, Chief Judge
PATRICIA H. FITZGERALD, Deputy Chief Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On January 27, 2025, appellant, through counsel, filed a timely appeal from a November 8, 2024 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act² (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction to consider the merits of the case.

¹ In all cases in which a representative has been authorized in a matter before the Board, no claim for a fee for legal or other service performed on appeal before the Board is valid unless approved by the Board. 20 C.F.R. § 501.9(e). No contract for a stipulated fee or on a contingent fee basis will be approved by the Board. *Id.* An attorney or representative's collection of a fee without the Board's approval may constitute a misdemeanor, subject to fine or imprisonment for up to one year or both. *Id.*; *see also* 18 U.S.C. § 292. Demands for payment of fees to a representative, prior to approval by the Board, may be reported to appropriate authorities for investigation.

² 5 U.S.C. § 8101 *et seq.*

ISSUE

The issue is whether appellant met her burden of proof to establish an injury on February 9, 2024 in the performance of duty, as alleged.

FACTUAL HISTORY

On March 1, 2024, appellant, then a 67-year-old registered nurse (RN), filed a traumatic injury claim (Form CA-1) alleging that, on February 9, 2024, she fractured her right arm when she tripped and fell as she was walking to the police station to have her identification (ID) card activated, while in the performance of duty. She stopped work that same day. The employing establishment controverted the claim and alleged that appellant suffered an idiopathic event (“seizure”) without striking any objects before hitting the floor.

OWCP received February 9, 2024 hospital records, including a February 10, 2024 operative report from Dr. Lyn Roy Johnson, an osteopathic physician Board-certified in family practice, which reflected that appellant had undergone a surgical procedure for an open right olecranon fracture.

In a March 5, 2024 employee injury report, Dr. Chinyer Omeogu, Board-certified in occupational medicine, public health, and general preventive medicine, recounted appellant's history of injury, that she walked down the lobby staircase and 30 to 40 feet towards the police station when she suddenly fell, landing on her right elbow, arm, and shoulder. He noted that appellant's next awareness was of being in the ambulance and being taken to the hospital. Appellant had experienced a loss of consciousness, but she denied being dizzy or lightheaded prior to the fall. Dr. Omeogu indicated that there was not enough information to determine whether factors of employment caused the injury.

In a March 6, 2024 statement, S.K., an employing establishment human resources specialist, controverted the claim. He noted that medical records of February 9, 2024, the date of injury, indicated that appellant was working at the employing establishment when she fell due to a seizure. S.K. explained that Chief Nurse D. reported that she was notified of an employee who was having a seizure in the lobby and when she arrived, a medical team was tending to appellant and emergency medical services (EMS) had been called. Appellant was noted to have a laceration on her right arm and bleeding was controlled and bandaged prior to EMS arrival. S.K. contended that appellant's injury resulted from a seizure not related to her employment, and that she did not come into contact with any object or furniture before she struck the ground. He contended that appellant suffered from a medical event (seizure) that caused an idiopathic fall and therefore, her injury was not work related.

In an unsigned statement received on March 20, 2024, an unidentified witness noted that she was exiting a hallway when she saw appellant laying on the floor beside an unknown bystander. She related that she had witnessed appellant's fall, and that appellant had lost consciousness. The witness noted that appellant regained consciousness and was slowly following verbal commands.

In an unsigned statement received on March 20, 2024, another unidentified witness related that while exiting the hall from the training laboratory into the lobby, she saw a female lying on

the floor in the lobby, who was awake but nonverbal and unable to follow verbal commands. The witness related that the female was moving all four extremities, but movement appeared non-purposeful. As time progressed, appellant became more alert and raised herself to a sitting position but remained confused and unable to communicate effectively.

In a March 26, 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 provided a questionnaire for completion. OWCP afforded appellant 60 days to respond.

In hospital admission records dated February 9 through 11, 2024, Dr. Niti Armistead, a Board-certified internist, noted that appellant presented for a syncopal *versus* seizure event. Appellant's history of hyperparathyroidism was also noted. She was brought in by EMS after loss of consciousness, followed by a fall, and right upper extremity injury. Dr. Armistead related that appellant was diagnosed with an open, comminuted right olecranon fracture, underwent surgery, and was stable for discharge on February 12, 2024. She further noted that appellant had recently moved to the area, had been very active over the prior few days, and had not been sleeping well. Dr. Armistead noted that appellant had a history of insomnia, irregular eating, and dehydration. She opined that there was a concern for seizure, "but at this time we think syncope was more likely."

Dr. James Robert Powell, a Board-certified internist, noted that appellant related that she was walking down some stairs when she blacked out and fell, causing an injury to her right upper extremity. He noted that she did not remember anything before the episode happened, denied lightheadedness, dizziness, shortness of breath, chest pain, palpitations, feeling sick, sweats, or other symptoms and when she woke up in the ambulance, it took approximately 15 minutes for her to be completely conscious. Dr. Powell also noted that she denied having any previous seizures or episodes like this one. He opined that it was "concerning for syncope but he did not believe this was a seizure event." Dr. Bryan Benjamin Kitch, Board-certified in emergency medicine, noted that appellant had "passed out *versus* seizure with no clear definitive description." He also noted that appellant had previous similar electrolyte issues. Dr. Savannah Ashley Loehr related a clinical impression of accidental fall.

In a letter dated April 26, 2024, the employing establishment again controverted the claim.

In progress notes dated May 7, 2024, Dr. Russell Norris, a Board-certified orthopedic surgeon, noted that appellant had a healed right olecranon fracture congruent to the ulnohumeral and radiocapitellar joints. He opined that appellant's injuries were consistent with a fall at work, but he was unable to comment with medical expertise on the cause of the fall with a report of loss of consciousness and a broad differential diagnosis best evaluated by her medical team.

OWCP received appellant's response to the development questionnaire. Appellant related that she descended a staircase, somehow tripped, and lost consciousness for a short period of time. She noted that the EMS providers indicated that she had a syncopal event with no evidence of a seizure, but she argued that they were not physicians. Appellant noted that she was not sure what caused her to trip and fall. She denied having any medical conditions that would cause the incident and denied being diagnosed with an epileptic event, a cardiac condition, diabetes, or having a

history of fainting. Appellant noted that she did not recall any hazards and that the medical notes indicated that she had a syncopal episode of unknown origin.

By decision dated May 29, 2024, OWCP accepted that the February 9, 2024 incident occurred as alleged and that a medical condition had been diagnosed in connection with the event. However, it denied the claim, finding that appellant failed to establish that the alleged injury occurred while in the performance of duty. OWCP determined that the fall was due to a syncopal event caused by nonwork factors. It concluded that the requirements had not been met to establish that appellant sustained an injury “and/or medical condition that arose during the course of employment and within the scope of compensable work factors as defined by the FECA.”

On August 26, 2024, appellant, through counsel, requested reconsideration. She argued that the medical evidence of record supported that the fall was unexplained, and the claim should therefore be accepted.

In a July 19, 2024 report, Dr. James Patton, a Board-certified neurologist, noted that appellant related that she was unsure of how she fell. He opined that appellant suffered from a fracture of the olecranon process of her right elbow as a direct result of a fall that she sustained on February 9, 2024, while performing the required duties of her position as an RN.

In an August 26, 2024 response, the employing establishment again controverted the claim and argued that appellant suffered an idiopathic fall. It noted that injuries due to personal and nonoccupational pathology were excluded from coverage under FECA.

By letter dated October 7, 2024, OWCP provided the employing establishment’s response to appellant, requested her comments, and afforded her 20 days to respond.

By letter dated October 25, 2024, appellant, through counsel, argued that the fall was unexplained and that OWCP had the burden of proof to determine whether the fall was idiopathic and not compensable, or unexplained and compensable. She further argued that the medical evidence categorized the fall as unexplained, and it was therefore compensable.

By decision dated November 8, 2024, OWCP denied modification of its prior decision. It found that appellant had sustained an idiopathic fall, which was not considered to have arisen in the performance of duty.

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 timely filed within the applicable time limitation period 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

³ See *K.B.*, Docket No. 24-0352 (issued May 16, 2024); *L.H.*, Docket No. 22-0449 (issued November 8, 2022); *S.B.*, Docket No. 17-1779 (issued February 7, 2018); *J.P.*, 59 ECAB 178 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

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

It is a well-settled principle of workers' compensation law, and the Board has so held, that an injury resulting from an idiopathic fall, where a personal, nonoccupational pathology causes an employee to collapse and to suffer injury upon striking the immediate supporting surface, and there is no intervention or contribution by any hazard or special condition of employment, is not within coverage of FECA.⁶ Such an injury does not arise out of a risk connected with the employment and is, therefore, not compensable. The Board has made equally clear, the fact that the cause of a particular fall cannot be ascertained or that the reason it occurred cannot be explained, does not establish that it was due to an idiopathic condition. This follows from the general rule that an injury occurring on the industrial premises during working hours is compensable unless the injury is established to be within an exception to such general rule.⁷

OWCP has the burden of proof to submit medical evidence showing the existence of a personal nonoccupational pathology, if it chooses to make a finding that a given fall is idiopathic in nature.⁸ If the record does not establish that the particular fall was due to an idiopathic condition, it must be considered as merely an unexplained fall, one which is distinguishable from a fall in which it is definitely proved that a physical condition preexisted and caused the fall.⁹

ANALYSIS

The Board finds that appellant has met her burden of proof to establish that the February 9, 2024 incident occurred in the performance of duty, as alleged.

In determining whether appellant's injury occurred in the performance of duty, the Board must first consider factors to determine whether the February 9, 2024 incident was caused by an idiopathic fall. A factor to be considered is whether there is evidence of a preexisting condition that caused the fall. As previously noted, OWCP bears the burden of proof to establish an idiopathic fall.¹⁰ If the record does not establish that the particular fall was due to an idiopathic

⁴ *L.S.*, Docket No. 19-1769 (issued July 10, 2020); *Jacqueline M. Nixon-Steward*, 52 ECAB 140 (2000).

⁵ *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).

⁶ *L.H.*, *supra* note 3; *D.R.*, Docket No. 19-0954 (issued October 25, 2019); *H.B.*, Docket No. 18-0278 (issued June 20, 2018); *see Carol A. Lyles*, 57 ECAB 265 (2005).

⁷ *H.B.*, *id.*; *Dora J. Ward*, 43 ECAB 767, 769 (1992); *Fay Leiter*, 35 ECAB 176, 182 (1983).

⁸ *A.B.*, Docket No. 17-1689 (issued December 4, 2018); *P.P.*, Docket No. 15-0522 (issued June 1, 2016); *see also Jennifer Atkerson*, 55 ECAB 317 (2004).

⁹ *H.B.*, *supra* note 6; *John R. Black*, 49 ECAB 624 (1998); *Judy Bryant*, 40 ECAB 207 (1988); *Martha G. List*, 26 ECAB 200 (1974).

¹⁰ *J.W.*, Docket No. 20-0598 (issued December 2, 2020); *A.B.*, *supra* note 8; *P.P.*, *supra* note 8; *see also Jennifer Atkerson*, *supra* note 8.

condition, it must be considered as merely an unexplained fall, one which is distinguishable from a fall in which it is definitely proved that a physical condition preexisted and caused the fall.¹¹

The medical reports relevant to the February 9, 2024 incident include a March 5, 2024 report from Dr. Omeogu, who noted that appellant denied being dizzy or lightheaded prior to the fall and had no prior history. He concluded that there was not enough information to determine what caused appellant's fall. OWCP also received a series of hospital records from February 9 through 11, 2024. Dr. Armistead noted that appellant suffered a fall with loss of consciousness. She opined that there was a concern for seizure, "but at this time we think syncope was more likely." Dr. Powell noted that appellant denied having any previous seizures or prior similar episodes. He opined that it was "concerning for syncope but he did not believe this was a seizure event." Dr. Bryan Benjamin Kitch, Board-certified in emergency medicine, noted that appellant had "passed out *versus* seizure with no clear definitive description." Dr. Savannah Ashley Loehr related a clinical impression of accidental fall. In a May 7, 2024 report, Dr. Norris opined that he was not able to comment with medical expertise on the cause of appellant's fall.

The Board finds that the medical evidence does not establish that appellant had an idiopathic condition that caused her February 9, 2024 fall.¹² These medical opinions were speculative regarding the cause of appellant's fall. The Board has long held that an opinion, which is equivocal or speculative in nature is of limited probative value.¹³ The Board therefore concludes that OWCP has not established that the February 9, 2024 fall was due to an idiopathic condition.¹⁴

The Board has held that a fall is compensable if it remains an unexplained fall which occurred while the claimant was engaged in activities incidental to his or her employment.¹⁵ As the record does not establish that appellant's fall was due to an idiopathic condition, it must be considered to be an unexplained fall.¹⁶

As appellant has established that the accepted February 9, 2024 incident occurred in the performance of duty, as alleged, the question becomes whether that incident caused an injury. On remand, OWCP shall evaluate the medical evidence to determine whether appellant sustained an injury causally related to the accepted February 9, 2024 employment incident and, if so, determine the nature and extent of any disability and attendant medical expenses.

¹¹ *Supra* note 9.

¹² See *R.A.*, Docket No. 16-0629 (issued October 19, 2016).

¹³ *S.L.*, Docket No. 23-0152 (issued May 16, 2023); see *L.L.*, Docket No. 21-0981 (issued July 1, 2022); *C.A.*, Docket No. 21-0601 (issued November 15, 2021); *J.P.*, Docket No. 19-0216 (issued December 13, 2019); *T.M.*, Docket No. 08-0975 (issued February 6, 2009).

¹⁴ See *A.B.*, *supra* note 8; *Robert A. Redmond*, 40 ECAB 796 (1989).

¹⁵ *S.Y.*, Docket No. 23-0641 (issued September 27, 2023); *Dora J. Ward*, *supra* note 7.

¹⁶ *A.B.*, *supra* note 8; *P.P.*, *supra* note 8; see also *Jennifer Atkerson*, *supra* note 8.

CONCLUSION

The Board finds that appellant has met her burden of proof to establish that the February 9, 2024 incident occurred in the performance of duty, as alleged.

ORDER

IT IS HEREBY ORDERED THAT the November 8, 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.

Issued: December 16, 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