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C.C., Appellant)	
)	
and)	Docket No. 25-0191
)	Issued: February 12, 2025
PEACE CORPS, VOLUNTEER SERVICES,)	
Washington, DC, Employer)	
)	

Case Submitted on the Record

Before:
ALEC J. KOROMILAS, Chief Judge
JANICE B. ASKIN, Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

On December 19, 2024 appellant filed a timely appeal from a November 15, 2024 merit decision and a December 4, 2024 nonmerit 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.

The issues are: (1) whether appellant has met her burden of proof to establish a dental condition causally related to the accepted factors of her federal service; and (2) whether OWCP properly denied appellant's request for reconsideration of the merits of her claim, pursuant to 5 U.S.C. § 8128(a).

¹ 5 U.S.C. § 8101 *et seq.*

FACTUAL HISTORY

On August 26, 2024 appellant, then a 65-year-old international cooperation volunteer, filed an occupational disease claim (Form CA-2) alleging that she developed dental issues due to factors of her federal employment. She indicated that she first became aware of her condition and realized that it had been caused or aggravated by her employment on November 9, 2023.

In support of her claim, appellant submitted a statement, which indicated that she was stationed by the employing establishment in Jamaica from September 2023 until July 2024. In November 2023, she felt a dental crown moving on the left side of her mouth while flossing and, later, developed severe pain on the right side of her mouth. Appellant indicated that her work was stressful and caused her to grind her teeth. She noted that she underwent an evaluation by a local dentist and that the employing establishment referred her for further care, which she was unable to receive in Jamaica due to delays from a hurricane.

OWCP received a partially legible dental record dated March 1, 2023, by an unidentifiable healthcare provider.

In a medical report dated January 19, 2024, Dr. Misty Fraser, a family practitioner in Jamaica, noted that appellant related complaints of pain in the left lower molar after flossing one month prior.

In a medical report dated January 24, 2024, Dr. Karene Blair, a dentist in Jamaica, noted open crown margins on teeth numbers 21, 19, and 14, failing amalgam on tooth number 7, and failing composite restorations on teeth 21, 28, and 29. She documented moderate calculus deposit, class 1 gingivitis, clicking/popping with opening and closing, and crepitus in the right and left temporomandibular joints (TMJ). Dr. Blair also noted a history of nighttime clenching and grinding, and that appellant had been wearing the same night guard for 10 years.

On March 6, 2024 Dr. Fraser submitted a consultation case report inquiry to an employing establishment occupational health specialist, which noted appellant's complaints and the evaluation findings of Dr. Blair.

In a March 6, 2024 response to Dr. Fraser's inquiry, Dr. David Spiegelman, a dentist and consultant for the employing establishment, reviewed x-rays and appellant's treatment with Dr. Blair. He noted that the x-rays that he was provided did not reveal any pathology associated with any of the teeth reported by Dr. Blair. Dr. Spiegelman opined that if any crowns had open margins, it would be a preexisting condition because the margins were either sealed at the time of delivery or they were open at the time of delivery and, therefore, defective. He did not recommend approval of new crowns. Dr. Spiegelman indicated that Dr. Blair did not explain what she meant by failing fillings. He noted that appellant's fillings were old, and some wear was to be expected due to her teeth grinding habit. Dr. Spiegelman also indicated that a new night guard would be indicated if she was having TMJ pain.

In a further response dated March 8, 2024, Dr. Spiegelman indicated that it was extremely unlikely that appellant's discomfort was due to wear on her crowns. He noted that it was possible one of the crowns in the mandibular left quadrant was loose.

In a report dated March 13, 2024, Dr. Penelope Amritt, a dentist in Jamaica, noted that the crown on tooth 19 had a defective buccal margin, which caused food packing and was difficult to clean. She recommended a new crown for tooth 19. Dr. Amritt also noted severe pain, sensitivity to percussion, and tenderness with bite of tooth 30. She recommended x-rays.

In a March 26, 2024 follow-up entry to the consult case report, Dr. Fraser indicated that appellant's only issue was with the crown on tooth 19, that she had had dental prophylaxis and cleaning done, and had discussed with Dr. Amritt the possibility of a crown replacement.

In a follow-up report dated July 26, 2024, Dr. Rosemary Weismann-Moore, a family physician in Jamaica, noted that appellant related complaints of ear pain. Appellant also indicated that she was examined by a dentist who recommended a root canal for a right lower tooth, but that further dental care would have to be done once she returned to the United States.

In a development letter dated September 6, 2024, OWCP informed appellant of the deficiencies of her claim. It advised her of the type of factual and medical evidence needed and provided a questionnaire for her completion. OWCP afforded appellant 60 days to respond.

In a September 6, 2024 memorandum to OWCP, the employing establishment indicated that it did not dispute appellant's claim.

In a September 14, 2024 response to OWCP's questionnaire, appellant noted the history of her tooth pain and indicated that she last performed her regular duties for the employing establishment on July 26, 2024. She indicated that she felt a crown shift while flossing her teeth on November 19, 2023 and visited three dentists in Jamaica who all recommended crown replacement.

In a follow-up letter dated October 2, 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 6, 2024 letter to submit the requested supporting 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.

OWCP thereafter received Peace Corps authorization for examination and/or treatment (Form CA-15) completed by the employing establishment on September 16, 2024, which indicated that appellant was authorized to seek medical treatment, including two dental crowns, due to her November 9, 2023 employment injury. In a Part B attending physician's report of the Form CA-15 dated October 2, 2024, Dr. Jamie L. Johnson, a dentist, noted recurrent decay under an existing crown at the distal end of tooth 19; recommended connective tissue grafting for tooth 27; and recommended imaging and possible recrown of tooth 36. She checked a box marked "No" indicating that the conditions were not caused or aggravated by appellant's Peace Corps service.

In a dental report dated October 1, 2024, Dr. Brently A. Grimard, a Board-certified periodontist, diagnosed gingival recession associated with teeth 19, 20, 21, 25, 28, 29, 30, and 31, most significant in the mandibular premolar areas due to lack of attached tissue. For these teeth, he recommended connective tissue grafts. Dr. Grimard also obtained imaging of tooth 30 and diagnosed chronic apical periodontitis. He referred appellant to an endodontic specialist for a root canal treatment for tooth 30 and for further diagnosis of tooth 3.

In a dental report dated October 7, 2024, Dr. Matthew B. Thompson, a Board-certified endodontist, diagnosed pulpal necrosis, asymptomatic apical periodontitis, and periapical radiolucency of tooth 30. He performed permanent restoration with bonded composite. In Part B of Form CA-15, attending physician's report, of even date, Dr. Thompson diagnosed necrotic symptomatic apical periodontitis of tooth 30. He checked a box marked "No", which indicated that appellant's condition was not caused or aggravated by her Peace Corps service. Dr. Thompson explained that her "previous dental history of tooth #30 led to need for root canal."

By decision dated November 15, 2024, OWCP denied appellant's claim, finding that the evidence of record did not establish that the claimed dental conditions were causally related to the accepted factors of her federal service.

On December 3, 2024 appellant requested reconsideration of OWCP's November 15, 2024 decision. In support of her request, she submitted a statement which indicated that her preservice report made no mention of old crowns and questioned the validity of the recommendations made by the first dentist who evaluated her in Jamaica. Appellant also attached another illegible copy of the March 1, 2023 dental report.

By decision dated December 4, 2024, OWCP denied appellant's request for reconsideration of the merits of appellant's claim, pursuant to 5 U.S.C. § 8128(a).

LEGAL PRECEDENT -- ISSUE 1

FECA provides that an injury or illness sustained by a Peace Corps volunteer when he or she is outside the United States shall be presumed to have been sustained while in the performance of duty and proximately caused by federal employment. This presumption may be rebutted by evidence demonstrating that the injury or illness: (1) was caused by the volunteer's willful misconduct or intent to bring about injury to self or another; (2) was proximately caused by the volunteer's intoxication by alcohol or illegal drugs; (3) preexisted the period of service abroad; or (4) manifested symptoms of, or consequent to, a preexisting congenital defect or abnormality.² If the presumption is rebutted by evidence showing that the injury or illness preexisted the period of service abroad or manifested symptoms of, or consequent to, a preexisting congenital defect or abnormality, the volunteer may still prove his or her claim and be entitled to compensation if he or she submits substantial, probative and rationalized evidence establishing that the injury or illness was proximately caused or materially aggravated, accelerated or precipitated by factors or conditions of Peace Corps service.³

² *Id.* at § 8142(c)(3); 20 C.F.R. § 10.730(a); *see also M.C.*, Docket No. 19-0624 (issued December 8, 2020); *S.C.*, Docket No. 14-0383 (issued May 28, 2014).

³ 20 C.F.R. § 10.730(b), (c); Federal (FECA) Procedure Manual, Part 2 -- Claims, *Peace Corps Cases*, Chapter 2-1701 (January 2022).

ANALYSIS -- ISSUE 1

The Board finds that appellant has not met her burden of proof to establish a dental condition causally related to the accepted factors of her federal service.

Appellant was a Peace Corps volunteer in Jamaica for the period September 2023 to July 2024. She filed a Form CA-2 claim for dental conditions sustained while abroad. During appellant's service, Dr. Blair diagnosed open crown margins on teeth numbers 21, 19, and 14, failing amalgam on tooth number 7, and failing composite restorations on teeth 21, 28, and 29; Dr. Spiegelman noted a possible loose crown in the mandibular left quadrant; Dr. Amritt diagnosed a defective buccal margin of the crown on tooth 19; and Dr. Johnson diagnosed recurrent decay under an existing crown at the distal end of tooth 19, noted connective tissue issues with tooth 27, and recommended imaging possible recrown of tooth 36. Initially, the presumption arises that appellant, as a Peace Corps volunteer, sustained a work-related injury while in the performance of duty. As noted, this presumption is rebuttable.⁴

The case record does not establish that appellant's injury was the result of her willful misconduct, intent to bring about injury to herself or another or intoxication by alcohol or illegal drugs; however, Dr. Spiegelman opined that if any crowns had open margins, it would be a preexisting condition because the margins were either sealed at the time of delivery or they were open at the time of delivery and, therefore, defective. He also noted that appellant's fillings were aged, and some wear was to be expected due to her teeth grinding habit. As such, the medical evidence indicates that her dental condition predated her entry into the Peace Corps, and the presumption that her condition was sustained in the performance of duty is rebutted.⁵ Therefore, to establish her claim, appellant must submit substantial, probative and rationalized evidence proving that her injury was proximately caused or materially aggravated, accelerated or precipitated by work factors.⁶

Rationalized medical opinion evidence is generally required to establish causal relationship. The opinion of the physician must be based on a complete factual and medical background, 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 factors identified by the claimant.⁷

In Part B, attending physician's report of the Form CA-15, dated October 2, 2024, Dr. Johnson noted recurrent decay under an existing crown at the distal end of tooth 19; recommended connective tissue grafting for tooth 27; and recommended imaging and possible re-crown of tooth 36. She checked a box marked "No" indicating that the conditions were not caused or aggravated by appellant's peace corps service. Similarly, in Part B, attending physician's report of the Form CA-15 dated October 7, 2024, Dr. Thompson diagnosed necrotic symptomatic apical

⁴ *Id.*

⁵ *See A.T.*, Docket No. 97-2651 (issued August 24, 1999).

⁶ *A.W.*, Docket No. 13-0648 (issued June 4, 2013); *Charles S. Hamilton*, 52 ECAB 110, 114-15 (2000); *A.T.*, *id.*

⁷ *See S.J.*, Docket No. 17-0828 (issued December 20, 2017); *Kathryn E. DeMarsh*, 56 ECAB 677 (2005).

periodontitis of tooth 30. He checked a box marked “No,” which indicated that appellant’s condition was not caused or aggravated by her peace corps service. Dr. Thompson explained that her “previous dental history of tooth #30 led to need for root canal.” Dr. Spiegelman, in his consultation entries dated March 6 and 8, 2024, did not recommend approval of new crowns, noted that appellant’s fillings were old, and indicated that it was extremely unlikely that appellant’s discomfort was due to wear on her crowns. Thus, these reports do not establish a causal relationship between the diagnosed conditions and the accepted employment factors.⁸

Drs. Blair, Amritt, and Grimard, in reports dated January 24, March 13, and October 1, 2024, respectively, diagnosed various dental conditions. However, none of these reports addressed whether service in the Peace Corps caused or contributed to the conditions.⁹ Medical reports which do not offer an opinion on causal relationship are of no probative value.¹⁰ Therefore, this evidence is insufficient to establish appellant’s claim.

In reports dated January 19, and March 6 and 26, 2024, Dr. Fraser noted appellant’s complaints of left lower molar pain and right-sided tooth pain. However, these reports do not contain a dental diagnosis. The Board has held that a medical report lacking a firm diagnosis is of no probative value.¹¹ Therefore, this evidence is insufficient to establish the claim.

OWCP also received a partially legible dental record dated March 1, 2023 by an unidentifiable healthcare provider. The Board has held that reports that are unsigned or bear an illegible signature lack proper identification and cannot be considered probative medical evidence as the author cannot be identified as a physician.¹² Thus, this report is insufficient to establish appellant’s claim.

As appellant has not presented any rationalized medical evidence establishing a dental condition causally related to the accepted factors of her federal service, she has not met her burden of proof.

Appellant may submit new evidence or argument as part of a formal 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.

⁸ *Id.*

⁹ *J.F.*, Docket No. 09-1061 (issued November 17, 2009); *S.E.*, Docket No. 08-2214 (issued May 6, 2009).

¹⁰ *H.E.*, Docket No. 22-1129 (issued December 16, 2022); *S.S.*, Docket No. 21-1381 (issued December 7, 2022); *M.S.*, Docket No. 22-0586 (issued July 12, 2022); *M.T.*, Docket No. 20-0184 (issued June 24, 2022); *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

¹¹ *J.E.*, Docket No. 21-0810 (issued April 13, 2023); *P.C.*, Docket No. 18-0167 (issued May 7, 2019).

¹² *See D.F.*, Docket No. 22-0904 (issued October 31, 2022); *see also R.C.*, Docket No. 19-0376 (issued July 15, 2019); *Merton J. Sills*, 39 ECAB 572, 575 (1988).

LEGAL PRECEDENT -- ISSUE 2

Section 8128(a) of FECA does not entitle a claimant the review of an OWCP decision as a matter of right.¹³ OWCP has discretionary authority in this regard and has imposed certain limitations in exercising its authority.¹⁴ One such limitation is that the request for reconsideration must be received by OWCP within one year of the date of the decision for which review is sought.¹⁵

A timely request for reconsideration, including all supporting documents, must set forth arguments, and contain evidence that either: (1) shows that OWCP erroneously applied or interpreted a specific point of law; (2) advances a relevant legal argument not previously considered by OWCP; or (3) constitutes relevant and pertinent new evidence not previously considered by OWCP.¹⁶ When a timely request for reconsideration does not meet at least one of the above-noted requirements, OWCP will deny the request for reconsideration without reopening the case for a review on the merits.¹⁷

ANALYSIS -- ISSUE 2

The Board finds that OWCP properly denied appellant's request for reconsideration of the merits of her claim, pursuant to 5 U.S.C. § 8128(a).

Appellant has not alleged or demonstrated that OWCP erroneously applied or interpreted a specific point of law. Moreover, she has not advanced a relevant legal argument not previously considered. Consequently, appellant is not entitled to a review of the merits of her claim based on the first and second above-noted requirements under 20 C.F.R. § 10.606(b)(3).¹⁸

Furthermore, appellant has not provided relevant and pertinent new evidence in support of her request for reconsideration. On reconsideration, she submitted another illegible copy of the March 1, 2023 dental report. The Board has held that medical evidence that either duplicates or is substantially similar to evidence previously of record does not constitute a basis for reopening a

¹³ 5 U.S.C. § 8128(a).

¹⁴ 20 C.F.R. § 10.607.

¹⁵ *Id.* at § 10.607(a). For merit decisions issued on or after August 29, 2011, a request for reconsideration must be received by OWCP within one year of OWCP's decision for which review is sought. Federal (FECA) Procedure Manual, Part 2 -- Claims, *Reconsiderations*, Chapter 2.1602.4 (September 2020). Timeliness is determined by the document receipt date of the request for reconsideration as indicated by the received date in the Integrated Federal Employees' Compensation System (iFECS). *Id.* at Chapter 2.1602.4b.

¹⁶ *Id.* at § 10.606(b)(3); *see L.F.*, Docket No. 20-1371 (issued March 12, 2021); *B.R.*, Docket No. 19-0372 (issued February 20, 2020).

¹⁷ *Id.* at § 10.608.

¹⁸ *See R.L.*, Docket No. 20-1403 (issued July 21, 2021); *M.O.*, Docket No. 19-1677 (issued February 25, 2020); *C.B.*, Docket No. 18-1108 (issued January 22, 2019).

case.¹⁹ Therefore, appellant is not entitled to a merit review based on the third requirement under 20 C.F.R. § 10.606(b)(3).

The Board, accordingly, finds that appellant has not met any of the requirements of 20 C.F.R. § 10.606(b)(3). Pursuant to 20 C.F.R. § 10.608, OWCP properly denied merit review.

CONCLUSION

The Board finds that appellant has not met her burden of proof to establish a dental condition causally related to the accepted factors of her federal service. The Board further finds that OWCP properly denied appellant's request for reconsideration of the merits of her claim, pursuant to 5 U.S.C. § 8128(a).

ORDER

IT IS HEREBY ORDERED THAT the November 15 and December 4, 2024 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: February 12, 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

¹⁹ See *B.S.*, Docket No. 20-0927 (issued January 29, 2021); *M.O.*, *id.*; *Eugene F. Butler*, 36 ECAB 393, 398 (1984).