

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

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A.D., Appellant )  
and ) Docket No. 25-0553  
DEPARTMENT OF HOMELAND SECURITY, )  
U.S. CUSTOMS AND BORDER PROTECTION, )  
Detroit, MI, Employer )  
Issued: July 30, 2025  
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*Appearances:*  
*Appellant, pro se*  
*Office of Solicitor, for the Director*

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:  
PATRICIA H. FITZGERALD, Deputy Chief Judge  
JANICE B. ASKIN, Judge  
VALERIE D. EVANS-HARRELL, Alternate Judge

**JURISDICTION**

On May 18, 2025 appellant filed a timely appeal from an April 22, 2025 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act<sup>1</sup> (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 has met his burden of proof to establish a diagnosis of COVID-19 causally related to the accepted August 8, 2024 employment exposure.

**FACTUAL HISTORY**

On September 7, 2024 appellant, then a 41-year-old customs and border protection officer, filed a traumatic injury claim (Form CA-1) alleging that on August 8, 2024 he contracted COVID-

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<sup>1</sup> 5 U.S.C. § 8101 *et seq.*

19 while in the performance of duty. He noted that on that date he was exposed to COVID-19 from an ill coworker, and on August 19, 2024 he tested positive for COVID-19. Appellant stopped work on August 19, 2024, and returned to work on August 27, 2024.<sup>2</sup>

Appellant submitted an August 19, 2024 positive SARS-COV2 antigen test and August 19 and September 6, 2024 work excuse notes from certified nurse practitioners.

In a development letter dated September 10, 2024, OWCP informed appellant of the deficiencies of his claim. It advised him of the type of factual and medical evidence needed and provided a questionnaire for his completion. OWCP afforded appellant 60 days to respond. In a development letter of even date, it also requested additional information from the employing establishment. OWCP afforded the employing establishment 30 days to respond.

On September 26, 2024 OWCP received the employing establishment's undated response to its development letter, which confirmed that appellant was exposed to an ill coworker for approximately 15 to 20 minutes on August 8, 2024. However, it challenged the claim, asserting that the ill coworker did not have a confirmed-positive COVID-19 test result.

In a follow-up development letter dated October 8, 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 September 10, 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.

OWCP subsequently received appellant's undated statement and an October 10, 2024 attending physician's report (Form CA-20) in which Dr. David Wash, a Board-certified family practitioner, diagnosed COVID-19 and opined that it was caused or aggravated by appellant's employment as he was "forced to be near sick coworker." Dr. Wash also opined that appellant was totally disabled from employment from August 18 through 28, 2024.

By decision dated November 13, 2024, OWCP denied appellant's traumatic injury claim, finding that the factual evidence of record was insufficient to establish exposure to COVID-19, as alleged. Thus, it concluded that the requirements to establish an injury, as defined by FECA, had not been met.

On November 18, 2024 appellant requested an oral hearing before a representative of OWCP's Branch of Hearings and Review, which was held on February 20, 2025. OWCP also received appellant's completed development questionnaire dated November 12, 2024, which provided further details regarding the alleged employment exposure.

By decision dated April 22, 2025, OWCP's hearing representative modified the November 13, 2024 decision to find that evidence of record was sufficient to establish that appellant's exposure to a coworker with COVID-19 had occurred as alleged. However, the hearing representative affirmed the denial of the claim as the medical evidence of record was insufficient

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<sup>2</sup> Appellant previously filed a Form CA-1 under OWCP File No. xxxxxx961, alleging that on May 9, 2022 he developed shortness of breath and heart palpitations following exposure to COVID-19.

to establish that appellant's diagnosed COVID-19 was causally related to the accepted August 8, 2024 employment exposure.<sup>3</sup>

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA<sup>4</sup> 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,<sup>5</sup> 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.<sup>6</sup> 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.<sup>7</sup>

To establish a claim for COVID-19 diagnosed after January 27, 2023, a claimant must provide: (1) evidence of a COVID-19 diagnosis; (2) evidence that establishes the claimant actually experienced the employment incident(s) or factor(s) alleged to have occurred; (3) evidence that the alleged incident(s) or factor(s) occurred while in the performance of duty; and (4) evidence that the COVID-19 condition is found by a physician to be causally related to the accepted employment incident(s) or factor(s). A rationalized medical report establishing a causal link between a diagnosis of COVID-19 and the accepted employment incident(s)/factor(s) is required in all claims for COVID-19 diagnosed after January 27, 2023.<sup>8</sup>

### **ANALYSIS**

The Board finds that appellant has met his burden of proof to establish a diagnosis of COVID-19 causally related to the accepted August 8, 2024 employment exposure.

OWCP confirmed that appellant was exposed to a coworker with COVID-19. In an October 10, 2024 Form CA-20, Dr. Wash opined that appellant's diagnosed COVID-19 was caused or aggravated by his employment as he was "forced to be near sick co-worker." This

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<sup>3</sup> The hearing representative directed OWCP to administratively combine appellant's claims under OWCP File Nos. xxxxxx913 and xxxxxx961. However, appellant's claims to date have not been administratively combined by OWCP.

<sup>4</sup> *Supra* note 1.

<sup>5</sup> See *F.H.*, Docket No. 18-0869 (issued January 29, 2020); *J.P.*, Docket No. 19-0129 (issued December 13, 2019); *Joe D. Cameron*, 41 ECAB 153 (1989).

<sup>6</sup> *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).

<sup>7</sup> *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).

<sup>8</sup> FECA Bulletin No. 23-02 (issued December 15, 2022). In accordance with the Congressional intent to end the specialized treatment of COVID-19 claims for Federal workers' compensation under section 4016 of the American Rescue Plan Act (ARPA) of 2021, Public Law 117-2 (March 11, 2021), OWCP issued FECA Bulletin No. 23-02, which updated its procedures for processing claims for COVID-19 diagnosed after January 27, 2023.

evidence, therefore, establishes a causal link between a diagnosis of COVID-19 and the accepted employment exposure.<sup>9</sup>

As the medical evidence of record is sufficient to establish causal relationship between appellant's diagnosis of COVID-19 and the accepted August 8, 2024 employment exposure, the Board finds that appellant has met his burden of proof.<sup>10</sup> The case shall, therefore, be remanded for payment of medical expenses and any attendant disability.

### **CONCLUSION**

The Board finds that appellant has met his burden of proof to establish a diagnosis of COVID-19 causally related to the accepted August 8, 2024 employment exposure.

### **ORDER**

**IT IS HEREBY ORDERED THAT** the April 22, 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: July 30, 2025  
Washington, DC

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

Janice B. Askin, Judge  
Employees' Compensation Appeals Board

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

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<sup>9</sup> A.H., Docket No. 23-1171 (issued September 23, 2024); M.M., Docket No. 24-0615 (issued September 23, 2024). See also FECA Bulletin No. 23-02, *id.* The Board notes the unique nature of COVID-19 as a highly contagious, airborne disease. As such, the Board recognizes that a medical opinion containing a pathophysiological explanation may be difficult to obtain under these circumstances.

<sup>10</sup> *Id.*