

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

E.C., Appellant))
)
and)	Docket No. 25-0590
		Issued: July 1, 2025
DEPARTMENT OF THE INTERIOR, NATIONAL PARK SERVICE, EFFIGY MOUNDS NATIONAL MONUMENT, Harpers Ferry, IA, 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 May 30, 2025 appellant filed a timely appeal from a January 6, 2025 merit decision of the Office of Workers' Compensation Programs (OWCP).¹ Pursuant to the Federal Employees' Compensation Act² (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

¹ The Board notes that following the January 6, 2025 decision, OWCP reviewed 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.*

² 5 U.S.C. § 8101 *et seq.*

ISSUE

The issue is whether appellant has met his burden of proof to establish a diagnosed medical condition in connection with the accepted September 19, 2024 employment incident.

FACTUAL HISTORY

On October 25, 2024 appellant, then a 65-year-old maintenance mechanic, filed a traumatic injury claim (Form CA-1) alleging that on September 19, 2024 he sustained left knee injuries when operating a stand-on mower which jerked over a hidden hole while in the performance of duty. On the reverse side of the claim form, the employing establishment acknowledged that he was injured in the performance of duty. Appellant did not stop work.

In an October 31, 2024 development letter, OWCP informed appellant of the deficiencies of his claim. It advised him of the type of factual and medical evidence needed to establish his claim and provided a questionnaire for his completion. OWCP afforded appellant 60 days to submit the necessary evidence.

OWCP received additional evidence. On September 19, 2024 Alex Berns, a family nurse practitioner, examined appellant due to left knee pain which occurred when he stepped backward out of a truck. Appellant underwent left knee x-rays of even date which were negative for fracture.

In a December 7, 2024 statement, appellant related that he was mowing a mound, and the right front wheel of the mower dropped into a hole, the front of the mower jerked to the right and tipped downhill twisting his left knee to the right and jarring it downward.

In a follow-up letter dated December 11, 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 October 31, 2024 letter to submit the necessary 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. No further evidence was received.

By decision dated, January 6, 2025, OWCP accepted that the September 19, 2024 employment incident occurred, as alleged. However, it denied appellant's claim, finding that the medical evidence of record was insufficient to establish a medical diagnosis in connection with the accepted employment incident. Consequently, OWCP found that he had not met the requirements to establish an injury as defined by FECA.

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

³ *Id.*

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. First, the employee must establish that he or she actually experienced the employment incident at the time and place, and in the manner alleged. Second, the employee must establish that the employment incident caused an injury.⁷

The medical evidence required to establish causal relationship between a medical 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 the accepted employment incident.⁹

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish a diagnosed medical condition in connection with the accepted September 19, 2024 employment incident.

In support of his claim, appellant submitted a report from a Mr. Bern, a family nurse practitioner. However, certain health care providers such as nurses, physician assistants, and physical therapists are not considered physicians under FECA and, therefore, are not competent to

⁴ *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 *S.H.*, Docket No. 22-0391 (issued June 29, 2022); *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).

⁶ *E.H.*, Docket No. 22-0401 (issued June 29, 2022); *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 *H.M.*, Docket No. 22-0343 (issued June 28, 2022); *T.J.*, Docket No. 19-0461 (issued August 11, 2020); *K.L.*, Docket No. 18-1029 (issued January 9, 2019); *John J. Caralone*, 41 ECAB 354 (1989).

⁸ *S.M.*, Docket No. 22-0075 (issued May 6, 2022); *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 *J.D.*, Docket No. 22-0935 (issued December 16, 2022); *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).

provide a medical opinion.¹⁰ As such, this evidence is of no probative value and insufficient to establish appellant's claim.¹¹

Appellant also provided an x-ray report. The Board, however, has held that diagnostic studies, standing alone, lack probative value.¹² Consequently, this evidence is insufficient to establish appellant's claim.¹³

As the medical evidence of record is insufficient to establish a diagnosed medical condition in connection with the accepted September 19, 2024 employment incident, the Board finds that appellant has not met his burden of proof.

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 his burden of proof to establish a diagnosed medical condition in connection with the accepted September 19, 2024 employment incident.

¹⁰ Section 8102(2) of FECA provides as follows: "(2) physician includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, and osteopathic practitioners within the scope of their practice as defined by State law." 5 U.S.C. § 8102(2); 20 C.F.R. § 10.5(t). See Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3a(1) (May 2023); *David P. Sawchuk*, 57 ECAB 316, 320 n.11 (2006) (lay individuals such as physician assistants, nurses, and physical therapists are not competent to render a medical opinion under FECA); *see also N.Y.*, Docket No. 25-0310 (issued March 20, 2025) (nurse practitioners are not competent to render a medical opinion under FECA); *R.P.*, Docket No. 25-0054 (issued December 9, 2024) (nurse practitioners are not physicians under FECA).

¹¹ *Id.*; *R.B.*, Docket No. 25-0361 (issued April 23, 2025).

¹² *K.A.*, Docket No. 23-613 (issued April 22, 2024); *W.L.*, Docket No. 20-1589 (issued August 26, 2021); *A.P.*, Docket No. 18-1690 (issued December 12, 2019).

¹³ *D.S.*, Docket No. 24-0888 (issued November 6, 2024); *A.W.*, Docket No. 22-1196 (issued November 23, 2022); *S.W.*, Docket No. 21-1105 (issued December 17, 2021); *W.L.*, *id.*, *R.B.*, *supra* note 11.

ORDER

IT IS HEREBY ORDERED THAT the January 6, 2025 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: July 1, 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