United States Department of Labor
Employees' Compensation Appeals Board

S.P., Appellant	)	
and	)	
DEPARTMENT OF THE INTERIOR, NATIONAL PARK SERVICE, NATIONAL MALL AND MEMORIAL PARKS, Washington, DC, Employer	)	**Docket No. 25-0265** **Issued: March 10, 2025**

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

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

JURISDICTION

On January 21, 2025 appellant filed a timely appeal from a November 14, 2024 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act[1] (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 employment exposure.

[1] 5 U.S.C. § 8101 *et seq*.

FACTUAL HISTORY

On August 14, 2024 appellant, then a 60-year-old park ranger, filed an occupational disease claim (Form CA-2) alleging that he was exposed to, and contracted, COVID-19 due to factors of his federal employment, as he was frequently in close contact with a coworker who contracted COVID-19 the week prior. He noted that he first became aware of his condition and realized its relationship to his federal employment on August 13, 2024. Appellant stopped work on August 13, 2024.

In support of his claim, appellant submitted an August 13, 2024 laboratory COVID-19 antigen test, collected on August 13, 2024, which revealed that he tested positive for COVID-19.

In a development letter dated August 21, 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 separate development letter also dated August 21, 2024, it requested that the employing establishment provide additional information, including comments from a knowledgeable supervisor. OWCP afforded the employing establishment 30 days to respond.

In response to the development letter, J.L., appellant's supervisor, noted that appellant worked at a computer station next to a ranger who was diagnosed with COVID-19. She indicated that appellant was exposed two hours each morning and one hour at check out. J.L. noted that appellant was diagnosed with COVID-19 after August 12, 2024 and did not return to work. OWCP received a position description for a park ranger.

In a follow-up letter dated September 23, 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 its August 21, 2024 letter to submit the requested 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.

OWCP received additional evidence. On August 20, 2024, Christina Rosenberg, a family nurse practitioner, noted that appellant tested positive for COVID-19 after contact with a co-worker. She advised that appellant was off work from August 13 through 15, 2024, and on August 20, 2024.

In a November 7, 2024 response to OWCP's development letter, appellant indicated that COVID-19 had spread throughout his workplace. A coworker, D.S., with whom he had close daily contact, had contracted the virus and appellant tested positive a week later. Appellant noted that he and his coworker sat at cubicles less than six feet apart for at least two hours before going to their assigned sites. In addition, three members of the maintenance division had also tested positive for COVID-19. Appellant noted that he had no chance of exposure outside of his workplace.

OWCP thereafter received a duplicate copy of the August 13, 2024 laboratory COVID-19 antigen test, which was previously of record.

By decision dated November 14, 2024, OWCP denied appellant's occupational disease claim. It found that the medical evidence of record was insufficient to establish causal relationship between the diagnosed condition and the accepted employment exposure.

LEGAL PRECEDENT

An employee seeking benefits under FECA[2] 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,[3] that an injury was sustained while 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.[4] These are the essential elements of each and every compensation claim, regardless of whether the claim is predicated on a traumatic injury or an occupational disease.[5]

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.[6]

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish a diagnosis of COVID-19 causally related to the accepted employment exposure.

In support of his claim, appellant submitted the results of a laboratory COVID-19 antigen test dated August 13, 2024, which revealed that he tested positive for COVID-19. The Board has held that diagnostic studies, standing alone, lack probative value as they do not address whether

[2] *Id*.

[3] *C.B.*, Docket No. 21-1291 (issued April 28, 2022); *S.C.*, Docket No. 18-1242 (issued March 13, 2019); *J.P.*, 59 ECAB 178 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

[4] *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).

[5] *P.A.*, Docket No. 18-0559 (issued January 29, 2020); *T.E.*, Docket No. 18-1595 (issued March 13, 2019); *Delores C. Ellyett*, 41 ECAB 992 (1990).

[6] 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.

the employment exposure caused the diagnosed medical condition.[7] Thus, this evidence is insufficient to establish the claim.

Appellant also submitted a note from a family nurse practitioner. The Board has held that treatment notes signed by a nurse practitioner[8] are not considered medical evidence as these providers are not considered physicians under FECA[9] and are not competent to render a medical opinion under FECA. Thus, this evidence is insufficient to establish the claim.

As the medical evidence of record is insufficient to establish causal relationship between appellant's diagnosed COVID-19 condition and the accepted employment exposure, 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 diagnosis of COVID-19 causally related to the accepted employment exposure.

[7] *See M.S.*, Docket No. 22-0417 (issued August 8, 2022); *S.H.*, Docket No. 20-0113 (issued June 24, 2020); *M.L.*, Docket No. 18-0153 (issued January 22, 2020).

[8] *Paul Foster*, 56 ECAB 208 (2004) (where the Board found that a nurse practitioner is not a "physician" pursuant to FECA).

[9] 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) (January 2013); *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 F.L.*, Docket No. 25-0211 (issued January 30, 2025) (nurse practitioners are not considered physicians as defined under FECA).

ORDER

IT IS HEREBY ORDERED THAT the November 14, 2024 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: March 10, 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