

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

malignant melanoma due to factors of his federal employment, including working outside for many years. He noted that he first became aware of his conditions and realized their relationship to his federal employment on May 1, 2023. Appellant did not stop work.

In a July 5, 2024 statement, the employing establishment controverted the claim, asserting that in an unspecified statement, appellant indicated that he had a family history of cancer and was first diagnosed with skin cancer in 2008. Additionally, he wore sunscreen and protective hats while on duty.

Thereafter, OWCP received a May 30, 2023 report, wherein Dr. Shyam S.R. Allamaneni, a Board-certified general surgeon, noted that a biopsy had confirmed malignant melanoma of the left upper back. Dr. Allamaneni performed wide-local excision and closure on June 9, 2023.

In a September 1, 2023 report, Dr. Allamaneni diagnosed malignant melanoma of the left upper back. He reminded appellant to avoid excessive sun exposure by seeking shade outdoors, wearing sunscreen, sun-protective clothing, and a broad-brimmed hat.

In a May 29, 2024 report, Dr. Dore Eisen, a Board-certified dermatologist, recounted treating appellant commencing in 2006 for a “significant number of cancers” including basal cell carcinomas diagnosed in September 2008, December 2011, October 2012, September 2015, October 2018, July 2020, May 2021, May 2022, and November 2023; squamous cell carcinomas diagnosed in July 2020 and November 2021; and a recent diagnosis of malignant melanoma. He opined that, “[a]ll of these cancers are strongly linked with sun exposure.” Appellant had been working outdoors, with exposure to “sunlight invariably strongly related to his underlying skin cancers.” Dr. Eisen explained that as the effect of appellant’s sun exposure while working outdoors permanently increased his risk of future skin cancer, he should try to minimize or eliminate any outdoor work.

In a development letter dated July 8, 2024, OWCP informed appellant of the deficiencies of his occupational disease claim. It advised him of the type of factual and medical evidence necessary to establish his claim and provided a questionnaire for his completion. OWCP afforded appellant 60 days to submit the necessary evidence.

In response, appellant submitted a July 11, 2024 statement wherein he attributed his history of skin cancer commencing in 2008 to working outside for 6 to 10 hours a day, six days a week, with extensive sun exposure. He noted that he had worn a postal ball cap or wide brimmed hat throughout his career and had applied sunscreen on most spring and fall days.

OWCP received a copy of appellant’s official position description as a city carrier. The duties described included delivering mail along a prescribed route.

On November 26, 2024, OWCP referred appellant, along with the medical record, a statement of accepted facts (SOAF), and a series of questions to Dr. Stephen Z. Smith, a Board-certified dermatologist with a subspecialty in dermatopathology, for a second opinion evaluation.

In a December 22, 2024 report, Dr. Smith reviewed the SOAF and medical record. He performed a physical examination wherein he observed “Fitzpatrick type 2 skin characterized as a fair skin sensitive to the sun” and a “high-risk of skin cancer formation.” Appellant related a history of several severe sunburns as a child, including to the back, a remote history of tanning bed use, regular recreational sun exposure while golfing and swimming, sun exposure while carrying mail on foot, and more recently diminished sun exposure while at work as he utilized a truck to deliver mail. Dr. Smith opined that the role of sun exposure in the development of basal cell carcinoma was well documented, with risk factors including fair skin. Appellant had developed multiple basal cell carcinomas on sun-exposed skin over the course of his employment. Dr. Smith opined that working outside for 6 to 10 hours a day without the protection of his truck had certainly increased “his vulnerability to developing basal cell carcinoma lesions.” Additionally, appellant’s two squamous cell carcinoma lesions on sun-exposed skin were consistent with known development and the risk factors of ultraviolet light radiation exposure, age, and occupational exposures. Dr. Smith opined that appellant’s sun exposure while at work accelerated the development of his nonmelanoma skin cancers, as the “role of ultraviolet light in causing basal cell and squamous cell carcinoma in fair skin[ned] individuals has been established.”

With regard to the malignant melanoma, Dr. Smith explained that it was known to develop due to intense, intermittent sun exposure such as appellant experienced during childhood and from outdoor recreation in adulthood. He thus opined that as appellant’s melanoma was on an area of the body covered by clothing while at work, the relationship of sun exposure at work to development of the malignant melanoma of the left upper back had not been proven.

By decision dated February 13, 2025, OWCP denied appellant’s occupational disease claim, finding that the medical evidence of record was insufficient to establish causal relationship between the accepted employment factors and his diagnosed conditions.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA<sup>2</sup> 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 of FECA, 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>3</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.

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit: (1) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; (2) medical evidence establishing the presence or existence of the disease or condition for which

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<sup>2</sup> *Supra* note 1.

<sup>3</sup> *K.M.*, Docket No. 24-0752 (issued October 16, 2024); *C.K.*, Docket No. 19-1549 (issued June 30, 2020); *Elaine Pendleton*, 40 ECAB 1143 (1989).

compensation is claimed; and (3) rationalized medical evidence establishing that the diagnosed condition is causally related to the identified employment factors.<sup>4</sup>

Causal relationship is a medical question that requires rationalized medical opinion evidence to resolve the issue.<sup>5</sup> 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.<sup>6</sup>

Section 8123(a) of FECA provides that, if there is a disagreement between the physician making the examination for the United States and the physician of an employee, the Secretary shall appoint a third physician (known as a referee physician or impartial medical examiner [IME]) who shall make an examination.<sup>7</sup> This is called a referee examination and OWCP will select a physician who is qualified in the appropriate specialty and who has no prior connection with the case.<sup>8</sup> When there exists opposing medical reports of virtually equal weight and rationale and the case is referred to an IME for the purpose of resolving the conflict, the opinion of such specialist, if sufficiently well rationalized and based upon a proper factual background, must be given special weight.<sup>9</sup>

### ANALYSIS

The Board finds that appellant has met his burden of proof to establish that he sustained basal cell and squamous cell carcinomas causally related to the accepted factors of his federal employment.

OWCP referred appellant, along with the medical record, a SOAF, and a series of questions to Dr. Smith for a second opinion evaluation. In his December 22, 2024 report, Dr. Smith reviewed the SOAF and medical record. He performed a physical examination wherein he observed “Fitzpatrick type 2 skin characterized as a fair skin sensitive to the sun” and a “high-risk of skin cancer formation.” Appellant related history of several severe sunburns as a child, including to the back, a remote history of tanning bed use, regular recreational sun exposure while golfing and swimming, sun exposure while carrying mail on foot, and more recently diminished

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<sup>4</sup> *M.Y.*, Docket No. 24-0865 (issued October 18, 2024); *L.D.*, Docket No. 19-1301 (issued January 29, 2020); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

<sup>5</sup> *E.K.*, Docket No. 25-0077 (issued January 21, 2025); *I.J.*, Docket No. 19-1343 (issued February 26, 2020); *T.H.*, 59 ECAB 388 (2008); *Robert G. Morris*, 48 ECAB 238 (1996).

<sup>6</sup> *S.W.*, Docket No. 25-0261 (issued February 24, 2025); *D.W.*, Docket No. 24-0492 (issued January 14, 2025); *D.J.*, Docket No. 19-1301 (issued January 29, 2020); *A.T.*, Docket No. 18-0221 (issued June 7, 2018).

<sup>7</sup> 5 U.S.C. § 8123(a); *R.R.*, Docket No. 25-0220 (issued February 10, 2025); *M.W.*, Docket No. 19-1347 (issued December 5, 2019); *C.T.*, Docket No. 19-0508 (issued September 5, 2019); *R.S.*, Docket No. 10-1704 (issued May 13, 2011); *S.T.*, Docket No. 08-1675 (issued May 4, 2009).

<sup>8</sup> 20 C.F.R. § 10.321.

<sup>9</sup> *M.W.*, *supra* note 7; *C.T.*, *supra* note 7; *Darlene R. Kennedy*, 57 ECAB 414 (2006); *Gloria J. Godfrey*, 52 ECAB 486 (2001); *James P. Roberts*, 31 ECAB 1010 (1980).

sun exposure while at work as he utilized a truck to deliver mail. Dr. Smith opined that the role of sun exposure in the development of basal cell carcinoma was well documented, with risk factors including fair skin. Appellant had developed multiple basal cell carcinomas on sun-exposed skin over the course of his employment. Dr. Smith opined that working outside for 6 to 10 hours a day without the protection of his truck had certainly increased “his vulnerability to developing basal cell carcinoma lesions.” Additionally, appellant’s two squamous cell carcinoma lesions on sun-exposed skin were consistent with known development and the risk factors of ultraviolet light radiation exposure, age, and occupational exposures. Dr. Smith opined that appellant’s sun exposure while at work accelerated the development of his nonmelanoma skin cancers, as the “role of ultraviolet light in causing basal cell and squamous cell carcinoma in fair skin[ned] individuals has been established.”

Dr. Smith provided extensive medical rationale, based upon a detailed clinical examination and review of the medical record and SOAF, supporting a causal relationship between appellant’s occupational exposure to ultraviolet radiation from sunlight and development of multiple basal and squamous cell carcinomas. Thus, his report constitutes the weight of the medical evidence.

As the medical evidence of record establishes that appellant’s basal cell and squamous cell carcinomas are causally related to the accepted factors of his federal employment, the Board finds that appellant has met his burden of proof. The Board shall, therefore, reverse the decision in part and remand the case to OWCP for payment of medical expenses and wage-loss compensation for any attendant disability due to appellant’s accepted basal cell and squamous cell carcinomas.

The Board further finds that the case is not in posture for decision regarding whether appellant met his burden of proof to establish that he sustained malignant melanoma causally related to the accepted employment injury.

On May 29, 2024, Dr. Eisen, appellant’s treating physician, diagnosed malignant melanoma in May 2023. He opined that appellant’s malignant melanoma, was “strongly linked” with appellant’s history of occupational sun exposure, and that appellant’s outdoor work and sunlight exposure were “invariably strongly related” to his underlying skin cancer. By contrast, Dr. Smith, the second opinion physician, opined in his December 22, 2024 report that malignant melanoma on a covered area of the body such as the upper back was unrelated to ultraviolet light exposure from sunlight during appellant’s federal employment. The Board, therefore, finds that a conflict in medical opinion exists regarding whether appellant developed malignant melanoma causally related to the accepted factors of federal employment.

OWCP’s regulations provide that, if a conflict exists between the medical opinion of the employee’s treating physicians and the medical opinion of a second-opinion physician or an OWCP medical adviser, OWCP shall appoint a third physician to make an examination.<sup>10</sup> The Board will, thus, remand the case to OWCP for referral to an IME regarding whether appellant has met his burden of proof to establish that he developed malignant melanoma due to the accepted

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<sup>10</sup> 5 U.S.C. § 8123(a); *R.R.*, *supra* note 7; *M.W.*, *supra* note 7.

employment injury.<sup>11</sup> Following this and other such further development as deemed necessary, OWCP shall issue a *de novo* decision.

### **CONCLUSION**

The Board finds that appellant has met his burden of proof to establish that he sustained basal cell and squamous cell carcinomas causally related to the accepted factors of his federal employment. The Board further finds that the case is not in posture for decision regarding whether appellant met his burden of proof to establish that he sustained malignant melanoma causally related to the accepted employment injury.

### **ORDER**

**IT IS HEREBY ORDERED THAT** the February 13, 2025 decision of the Office of Workers' Compensation Programs is reversed in part and set aside in part. The case is remanded for further proceedings consistent with this decision of the Board.

Issued: May 12, 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>11</sup> *Id.*