

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

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|-------------------------------------------------------------------------------|---|-----------------------------------|
| <b>D.J., Appellant</b>                                                        | ) |                                   |
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|                                                                               | ) |                                   |
| <b>and</b>                                                                    | ) | <b>Docket No. 25-0581</b>         |
|                                                                               | ) | <b>Issued: September 17, 2025</b> |
| <b>U.S. POSTAL SERVICE, EASTPORT POST<br/>OFFICE, Annapolis, MD, Employer</b> | ) |                                   |
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*Appearances:*

*Case Submitted on the Record*

*Appellant, pro se*

*Office of Solicitor, for the Director*

**DECISION AND ORDER**

Before:

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

**JURISDICTION**

On May 27, 2025 appellant filed a timely appeal from an April 17, 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.<sup>2</sup>

**ISSUE**

The issue is whether appellant has met her burden of proof to establish a diagnosed medical condition in connection with the accepted February 13, 2024 employment incident.

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

<sup>2</sup> The Board notes that, following the April 17, 2025 decision, appellant submitted additional evidence to OWCP. However, the Board's *Rules of Procedures* 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.*

## **FACTUAL HISTORY**

On February 13, 2024 appellant, then a 39-year-old lead sales and services associate, filed a traumatic injury claim (Form CA-1) alleging that on that date she sustained a right shoulder, arm, and upper back injury when a customer slammed into the right side of her body pushing her and causing her to fall while in the performance of duty. She stopped work on February 13, 2024.

In support of her claim, appellant submitted statements from coworkers who witnessed and described the February 13, 2024 incident when a disgruntled customer physically touched her while in the performance of duty. She also submitted a February 13, 2024 initial visit report from Erin Bernhard, a physician assistant, who documented treatment for her right shoulder injury on that date resulting from an aggressive customer pushing appellant. Ms. Bernhard diagnosed contusion of the right shoulder, initial encounter.

In a February 20, 2024 development letter, 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 submit the necessary evidence. No further medical evidence was received.

OWCP subsequently received a report of work status (Form CA-3), which noted that appellant stopped work on February 13, 2024, and returned to full-time regular-duty work on February 16, 2024.

In a follow-up letter dated March 18, 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 February 20, 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. No additional evidence was received.

By decision dated April 22, 2024, OWCP accepted that the February 13, 2024 employment incident occurred, as alleged. However, it denied the claim, finding that the evidence of record was insufficient to establish a diagnosed medical condition in connection with the accepted February 13, 2024 employment incident. OWCP concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

On April 7, 2025 appellant requested reconsideration of OWCP's April 22, 2024 decision.

In support of her claim, appellant submitted a completed authorization for examination and/or treatment (Form CA-16) dated February 13, 2024. In an attending physician's report, Part B of Form CA-16 of the same date, Ms. Bernhard diagnosed right shoulder contusion. She checked a box marked "YES" indicating that the condition was caused or aggravated by the employment activity described. The activity described was that appellant was pushed by an aggressive customer, injuring her right shoulder.

Appellant submitted an unsigned February 15, 2024 visit summary noting treatment for contusion of the right shoulder, neck pain on the right side, and an elevated blood pressure reading. She also submitted a February 15, 2024 work release note from Jacquelyn Good, a certified

medical assistant, who indicated that appellant was evaluated at the hospital on that date and could return to work without restrictions on February 17, 2024.

In a statement dated April 14, 2025, appellant asserted that her primary care provider diagnosed right shoulder contusion and neck pain during her February 15, 2024 visit.

By decision dated April 17, 2025, OWCP denied modification of its April 22, 2024 decision.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA<sup>3</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>4</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>5</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>6</sup>

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it must be determined whether fact of injury has been established. First, the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time and place, and in the manner alleged. Second, the employee must submit sufficient medical evidence to establish that the employment incident caused an injury.<sup>7</sup>

The medical evidence required to establish causal relationship between a claimed specific condition and an employment incident is rationalized medical opinion evidence.<sup>8</sup> 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

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<sup>3</sup> *Supra* note 1.

<sup>4</sup> *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).

<sup>5</sup> *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).

<sup>6</sup> *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).

<sup>7</sup> *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).

<sup>8</sup> *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).

nature of the relationship between the diagnosed condition and specific employment incident identified by the employee.<sup>9</sup>

Pursuant to OWCP's procedures, no development of a claim is necessary where the condition reported is a minor one, which can be identified on visual inspection by a lay person (e.g., burn, laceration, insect sting, or animal bite).<sup>10</sup> No medical report is required to establish a minor condition such as a contusion.<sup>11</sup>

## ANALYSIS

The Board finds that appellant has met her burden of proof to establish a diagnosed medical condition in connection with the accepted February 13, 2024 employment incident.

On February 13, 2024 appellant alleged a right shoulder, arm, and upper back injury when a customer slammed into the right side of her body pushing her and causing her to fall while in the performance of duty. The evidence of record indicates that she was seen on that date by Ms. Bernhard, a physician assistant, who noted her clinical findings and diagnosed right shoulder contusion following the accepted February 13, 2024 employment incident. Ms. Bernhard reported that the condition was due to an aggressive customer pushing appellant. She checked a box marked "YES" on the attending physician's report, Part B of the Form CA-16, indicating that the condition was caused or aggravated by the employment activity described, reiterating that an aggressive customer pushed appellant, injuring her right arm.

OWCP's procedures provide that, if a condition reported is a minor one, such as a burn, laceration, insect sting, or animal bite, which can be identified on visual inspection by a lay person, a case may be accepted without a medical report.<sup>12</sup>

As the medical evidence of record establishes a diagnosed medical condition in connection with the accepted February 13, 2024 employment incident, right shoulder contusion, the Board finds that appellant has met her burden of proof.<sup>13</sup> As appellant's right shoulder contusion is a visible injury, the case must be remanded for OWCP to apply its procedures regarding the

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<sup>9</sup> *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).

<sup>10</sup> Federal (FECA) Procedure Manual, Part 2 -- Claims, *Initial Development of Claims*, Chapter 2.800.6a (May 2023); Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3c (May 2023). See also *R.H.*, Docket No. 20-1684 (issued August 27, 2021); *A.J.*, Docket No. 19-1289 (issued December 31, 2019).

<sup>11</sup> *Id.*; see *B.C.*, Docket No. 20-0498 (issued August 27, 2020); *S.H.*, Docket No. 20-0113 (issued June 24, 2020); *M.A.*, Docket No. 13-1630 (issued June 18, 2014).

<sup>12</sup> *Supra* note 10. See also *J.W.*, Docket No. 25-0331 (issued April 15, 2025); *S.P.*, Docket No. 23-0036 (issued July 10, 2023); *C.C.*, Docket No. 22-1126 (issued May 8, 2023); *T.A.*, Docket No. 22-0955 (issued December 16, 2022); *S.G.*, Docket No. 22-0016 (issued October 31, 2022); *B.W.*, Docket No. 22-0134 (issued May 24, 2022); *J.B.*, Docket No. 21-1322 (issued April 4, 2022); *S.K.*, Docket No. 18-1411 (issued July 22, 2020).

<sup>13</sup> See *M.E.*, Docket No. 25-0724 (issued August 26, 2025); *D.M.*, Docket No. 25-0506 (issued June 23, 2025).

acceptance of visible injuries..<sup>14</sup> Following this and other such further development as deemed necessary, it shall issue a *de novo* decision.

**CONCLUSION**

The Board finds that appellant has met her burden of proof to establish a diagnosed medical condition in connection with the accepted February 13, 2024 employment incident.<sup>15</sup>

**ORDER**

**IT IS HEREBY ORDERED THAT** the April 17, 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: September 17, 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>14</sup> *Supra* notes 10-11.

<sup>15</sup> The Board notes that the employing establishment issued a Form CA-16 on February 13, 2024. A completed Form CA-16 authorization may constitute a contract for payment of medical expenses to a medical facility or physician, when properly executed. The form creates a contractual obligation, which does not involve the employee directly, to pay for the cost of the examination or treatment regardless of the action taken on the claim. *See* 20 C.F.R. § 10.300(c); *S.G.*, Docket No. 23-0552 (issued August 28, 2023); *J.G.*, Docket No. 17-1062 (issued February 13, 2018); *Tracy P. Spillane*, 54 ECAB 608 (2003).