

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

S.S., Appellant)	
)	
and)	Docket No. 26-0055
)	Issued: February 25, 2026
DEPARTMENT OF HOMELAND SECURITY,)	
TRANSPORTATION SECURITY)	
ADMINISTRATION, LaGUARDIA AIRPORT,)	
East Elmhurst, NY, Employer)	
)	

Appearances:
Paul Kalker, Esq., for the appellant¹
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 October 27, 2025 appellant, through counsel, filed a timely appeal from an October 22, 2025 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the

¹ In all cases in which a representative has been authorized in a matter before the Board, no claim for a fee for legal or other service performed on appeal before the Board is valid unless approved by the Board. 20 C.F.R. § 501.9(e). No contract for a stipulated fee or on a contingent fee basis will be approved by the Board. *Id.* An attorney or representative's collection of a fee without the Board's approval may constitute a misdemeanor, subject to fine or imprisonment for up to one year or both. *Id.*; see also 18 U.S.C. § 292. Demands for payment of fees to a representative, prior to approval by the Board, may be reported to appropriate authorities for investigation.

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.³

ISSUE

The issue is whether appellant has met his burden of proof to establish a medical condition causally related to the accepted May 16, 2025 employment incident.

FACTUAL HISTORY

On May 20, 2025 appellant, then a 53-year-old transportation security inspector, filed a traumatic injury claim (Form CA-1) alleging that, on May 16, 2025, he developed gastrointestinal (GI) pain, severe headaches, and muscle pain when he was sprayed by an unknown, brown liquid when a sprinkler system unexpectedly malfunctioned while in the performance of duty. He stopped work on May 18, 2025.

In e-mail correspondence dated May 16, 2025, C.M., an employing establishment supervisory transportation security officer, noted that appellant, and two other employees were exposed to a sprinkler system that unexpectedly activated multiple times throughout the day. She related that “the system discharged a high-pressure spray of brown-colored liquid of unknown composition,” and that each of them was “positioned approximately [two] to [three] feet from the discharge area and were sprayed during each activation.” C.M. indicated that “the liquid appeared discolored and potentially unsanitary, raising immediate concern regarding possible contamination.” She requested an investigation into the incident as “there may be a credible health risk.”

In e-mail correspondence dated May 18, 2025, appellant informed K.P. and B.F., employing establishment supervisors, that he was experiencing GI discomfort, muscle pain, and headaches, which he attributed to the May 16, 2025 employment incident.

In an after-visit summary dated May 18, 2025, John Digiacomio, an advanced practice registered nurse, noted that appellant was seen for muscle pain, headache, abdominal pain, and emesis. He administered urine, COVID-19, and influenza tests. In a letter dated May 21, 2025, Mr. Digiacomio recommended that appellant remain off work.

In a May 22, 2025 development letter, OWCP informed appellant that the evidence of record was insufficient to establish 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.

² 5 U.S.C. § 8101 *et seq.*

³ The Board notes that, following the October 22, 2025 decision, OWCP received additional evidence. 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.*

In an undated response to OWCP's development questionnaire, appellant related that on May 16, 2025 the sprinkler system activated in his work area and sprayed a brown liquid directly on his face, head, and body. He indicated that he was unaware of any testing or test results for the liquid.

In an attending physician's report (Form CA-20) dated May 20, 2025, Dr. Leon Rapko, a Board-certified osteopathic family practitioner, diagnosed reactive airways, allergic conjunctivitis, and rhinitis. He related the history of the May 16, 2025 employment incident and opined "there is an increased likelihood of reaction to exposure and current symptoms."

In statements dated May 30, 2025, appellant asserted that the fluid from the sprinkler made direct contact with his head, scalp, face, and clothes. He related that he developed persistent white, crusty circles on his eyelids approximately eight days later.

In e-mail correspondence also dated May 30, 2025, R.R., an employing establishment occupational health and safety specialist, indicated that she had received video of the incident on May 16, 2025, and had conducted an investigation with the applicable airline management. She noted that "it has been clarified that the discharge was, in fact, water" and the airline had contacted their service providers to remove and replace the pipe.

OWCP also received notes dated May 20 through June 6, 2025, wherein Mr. Digiacomo noted appellant's complaints of wheezing, nasal congestion, muscle pains, abdominal pain, and vomiting and recommended that he remain off work.

In a medical report dated June 18, 2025, Dr. Madhu Gowda, Board-certified in internal medicine, pulmonary disease, and critical care medicine, noted that appellant related complaints of difficulty taking a deep breath, cough, and sputum, which he attributed to the May 16, 2025 employment incident. He noted that appellant had various pets at home, previously smoked cigars, and had a history of obstructive sleep apnea, gastroesophageal reflux disease (GERD), and bariatric surgery, but no history of lung problems. Dr. Gowda ordered a hypersensitivity pneumonitis panel, which revealed above normal range immunoglobulin G (IgG) antibodies for aureobasidium pullulans, penicillium chrysogenum, and trichoderma viride and elevated IgG antibodies for aspergillus fumigatus. He also documented physical examination findings and reviewed a prior chest x-ray dated March 6, 2025, which was negative for any acute cardiopulmonary process. Dr. Gowda diagnosed inflammation of lung due to inhalation of solids and liquids, mixed restrictive and obstructive lung disease, diffuse lung disease, and GERD without esophagitis. He noted that appellant had symptoms suggestive of an inhalation lung injury and recommended a short course of steroids and inhalers.

In a development letter dated June 27, 2025, OWCP requested that the employing establishment provide information regarding appellant's claim, including comments from a knowledgeable supervisor. It afforded the employing establishment 30 days to respond.

In a Form CA-20 dated June 30, 2025, Dr. Rapko diagnosed reactive airway allergic rhinitis and conjunctivitis, neck pain, shoulder pain, and eye lesions due to the May 16, 2025 employment incident. He opined that "there is an increased likelihood of reaction to chemical

exposure in current symptoms. I additionally believe [appellant] was injured with rapid movement of his neck and shoulders when he was sprayed with said materials.”

In e-mail correspondence dated June 30, 2025, appellant notified R.R. that his recent bloodwork had confirmed the presence of antibodies for several molds, which he believed was from stagnant water in the fire suppression systems. He also indicated that he required two inhalers and multiple medications for physical pain, breathing issues, and difficulty sleeping since the incident.

In a July 25, 2025 response to OWCP’s development letter, the employing establishment indicated that it reviewed the video of the incident. It also noted that its stakeholder manager, an occupational health and safety specialist, and the airline confirmed that the sprinkler system contained only water and no chemical agents, fire retardants, or other hazardous substances.

On July 25, 2025 appellant submitted a rebuttal statement.

OWCP also received a duty status report (Form CA-17) dated July 7, 2025 by Mr. Digiacoimo and physical therapy reports for treatment of neck pain and frequent headaches.

By decision dated August 11, 2025, OWCP found that appellant had established that the May 16, 2025 incident occurred, as alleged, and that medical conditions had been diagnosed. It denied the claim, however, finding the medical evidence of record was insufficient to establish causal relationship between the diagnosed conditions and the accepted May 16, 2025 employment incident.

OWCP subsequently received an August 11, 2025 medical report, wherein Dr. Ajit Chary, Board-certified in internal medicine, pulmonary disease, and critical care medicine, noted that appellant had no prior history of respiratory, GI, or autoimmune disorders. Dr. Chary indicated that appellant related complaints of GI issues, difficulty breathing, chest burning, chronic cough, intense body aches, and white, crusty circles on his eyelids, which he attributed to the May 16, 2025 employment incident. He performed a physical examination and observed tenderness to palpation of the cervical paraspinal musculature but an otherwise normal examination of the head, neck, and upper extremities. Dr. Chary further noted that appellant’s June 18, 2025 bloodwork showed elevated IgG antibodies to multiple mold species, including penicillium chrysogenum, trichoderma viride, aureobasidium pullulans, and aspergillus fumigatus, which he opined confirmed substantial mold antigen exposure. He diagnosed pneumonitis due to inhalation of other solids and liquids and unspecified injury of muscle, fascia, and tendon of the neck, causally related to the May 16, 2025 employment incident. Dr. Chary explained that appellant inhaled “the aerosolized high-pressure spray of stagnant, mold-contaminated water,” that the “fine droplet size facilitated deep airway deposition of mold spores and organic particulates,” and that the acute respiratory symptoms within days of the exposure, combined with positive laboratory evidence of mold antigen sensitization, directly supported the diagnosis of pneumonitis due to inhalation of contaminated liquids. He also explained that repeated high pressure liquid impact to the head and neck region during the exposure incident caused sudden, involuntary reflexive neck movements and sustained tension of the cervical muscles, which led to an injury to the muscle, fascia, and tendon structures in the neck.

On September 9, 2025 appellant, through counsel, requested reconsideration of OWCP's August 11, 2025 decision.

In a medical report and work capacity evaluation (Form OWCP-5c) dated September 22, 2025, Dr. Chary noted ongoing intermittent shortness of breath, headaches, wheezing, nasal drainage, and chest tightness.

By decision dated October 22, 2025, OWCP denied modification of the August 11, 2025 decision.

LEGAL PRECEDENT

An employee seeking benefits under FECA⁴ 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,⁵ 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.⁶ 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.⁷

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. The first component is that 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. The second component is that the employee must submit sufficient evidence to establish that the employment incident caused an injury.⁸

The medical evidence required to establish causal relationship between a claimed specific condition and an employment incident is rationalized medical opinion evidence.⁹ 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

⁴ *Supra* note 2.

⁵ *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).

⁶ *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).

⁷ *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).

⁸ *T.H.*, Docket No. 19-0599 (issued January 28, 2020); *K.L.*, Docket No. 18-1029 (issued January 9, 2019); *John J. Carlone*, 41 ECAB 354 (1989).

⁹ *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.¹⁰

ANALYSIS

The Board finds that this case is not in posture for decision.

In his August 11, 2025 medical report, Dr. Chary noted the history of the May 16, 2025 employment incident, his review of appellant's medical history and treatment, and his physical examination findings. He diagnosed pneumonitis due to inhalation of other solids and liquids and unspecified injury of muscle, fascia, and tendon of the neck, causally related to the May 16, 2025 employment incident. Dr. Chary explained that appellant inhaled "the aerosolized high-pressure spray of stagnant, mold-contaminated water," that the "fine droplet size facilitated deep airway deposition of mold spores and organic particulates," and that the acute respiratory symptoms within days of the exposure, combined with positive laboratory evidence of mold antigen sensitization, directly supported the diagnosis of pneumonitis due to inhalation of contaminated liquids. He also explained that repeated high pressure liquid impact to the head and neck region during the exposure incident caused sudden, involuntary reflexive neck movements and sustained tension of the cervical muscles, which led to an injury to the muscle, fascia, and tendon structures. While Dr. Chary's August 11, 2025 report is insufficient to establish appellant's claim, it is sufficient to require further development of the medical evidence.¹¹

It is well established that proceedings under FECA are not adversarial in nature and, while appellant has the burden of proof to establish entitlement to compensation, OWCP shares responsibility in the development of the evidence.¹² OWCP has an obligation to see that justice is done.¹³

This case must, therefore, be remanded for further development. On remand, OWCP shall refer appellant, along with the medical record and a statement of accepted facts, to specialist(s) in the appropriate fields of medicine for a second opinion examination and report regarding whether appellant's diagnosed conditions are causally related to the accepted employment incident.¹⁴ If the referral physician(s) disagree with the opinion of Dr. Chary, they must provide a fully-rationalized opinion explaining why appellant's diagnosed conditions are not causally related to the accepted May 16, 2025 employment incident. After this and other such further development as deemed necessary, OWCP shall issue a *de novo* decision.

¹⁰ *A.S.*, Docket No. 19-1955 (issued April 9, 2020); *Leslie C. Moore*, 52 ECAB 132 (2000).

¹¹ *See Z.S.*, Docket No. 25-0138 (issued January 22, 2025); *R.B.*, Docket No. 20-0498 (issued August 27, 2020); *D.S.*, Docket No. 17-1359 (issued May 3, 2019); *X.V.*, Docket No. 18-1360 (issued April 12, 2019); *C.M.*, Docket No. 17-1977 (issued January 29, 2019); *John J. Carlone*, 41 ECAB 354 (1989); *William J. Cantrell*, 34 ECAB 1223 (1983).

¹² *Id.* *See also A.P.*, Docket No. 17-0813 (issued January 3, 2018); *Jimmy A. Hammons*, 51 ECAB 219, 223 (1999).

¹³ *See B.C.*, Docket No. 15-1853 (issued January 19, 2016); *E.J.*, Docket No. 09-1481 (issued February 19, 2010).

¹⁴ *See R.B.*, *supra* note 11; *C.C.*, Docket No. 19-1631 (issued February 12, 2020).

CONCLUSION

The Board finds that this case is not in posture for decision.

ORDER

IT IS HEREBY ORDERED THAT the October 22, 2025 decision of the Office of Workers' Compensation Programs is set aside, and the case is remanded for further proceedings consistent with this decision of the Board.

Issued: February 25, 2026
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