

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

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<p><b>V.I., Appellant</b></p> <p>and</p> <p><b>FEDERAL JUDICIARY, U.S. PROBATION OFFICE AND PRETRIAL SERVICES AGENCY, DISTRICT OF NEW JERSEY, Newark, NJ, Employer</b></p>	) ) ) ) ) ) ) ) )	<b>Docket No. 23-0555</b> <b>Issued: January 8, 2026</b>
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*Appearances:*

*Appellant, pro se*

*Office of Solicitor, for the Director*

*Case Submitted on the Record*

**Before:**

ALEC J. KOROMILAS, Chief Judge

PATRICIA H. FITZGERALD, Deputy Chief Judge

VALERIE D. EVANS-HARRELL, Alternate Judge

**JURISDICTION**

On March 1, 2023 appellant filed a timely appeal from a January 13, 2023 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 the case.<sup>2</sup>

**ISSUE**

The issue is whether appellant has met his burden of proof to establish a diagnosed medical condition in connection with the accepted January 25, 2022 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 January 13, 2023 decision, appellant submitted additional evidence to the Board. 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.*

## **FACTUAL HISTORY**

On February 1, 2022 appellant, then a 42-year-old criminal investigator, filed a traumatic injury claim (Form CA-1) alleging that on January 25, 2022 he obtained a COVID-19 vaccination mandated by the employing establishment and that on January 27, 2022 he briefly lost consciousness and balance while in the performance of duty. On the reverse side of the claim form, appellant's supervisor acknowledged that he was injured in the performance of duty and indicated that he stopped work on January 26, 2022.

In support of his claim, appellant submitted an unsigned January 27, 2022 emergency department after-visit summary indicating that he was seen by Dr. Devleen Baksi, an osteopath specializing in emergency medicine, for fatigue, post-vaccination reaction, and syncope.

OWCP also received a January 31, 2022 e-mail from the employing establishment, reminding employees to provide documentation of compliance with its vaccine mandate. In a follow-up exchange, he confirmed that appellant received his mandatory shot the previous week.

In a January 31, 2022 work excuse note, Dr. Michael Cascarina, a Board-certified family medicine physician, held appellant off work for the week.

In a February 5, 2022 report, Sandy Johnson, an advanced practice nurse, related that appellant reported having a painful rash on his back and the left side of his scalp for two days. Ms. Johnson's examination revealed two small patches of blistery red rash behind the top of the left ear, and she noted the area was tender to touch. She diagnosed zoster without complications.

On February 8, 2022 Dr. Cascarina held appellant off work until March 4, 2022. An unsigned February 10, 2022 report contained a diagnosis of herpes zoster.

In a development letter dated February 25, 2022, OWCP informed appellant of the deficiencies of his claim. It advised him of the type of factual and medical evidence needed and afforded him 30 days to submit the necessary evidence.

OWCP received additional evidence. In an emergency department report signed on January 27, 2022, Dr. Baksi related that appellant had a near syncopal episode while standing at work that day and continued to feel lightheaded when changing from sitting to standing position. He noted that appellant reported that he had COVID-19 long-haul syndrome with intermittent episodes of fatigue and lightheadedness. Dr. Baksi further noted that appellant had received a COVID vaccine two days prior and reported having body aches since then. His examination revealed no abnormalities, and he diagnosed syncope, fatigue, and post-vaccination reaction.

Dr. Cascarina completed an employing establishment report of medical assessment on February 28, 2022, diagnosing post-COVID-19 syndrome. He indicated that appellant had difficulty concentrating and recommended rest and a reduced work schedule with restrictions. In a note of even date, Dr. Cascarina related that, since appellant's COVID-19 shot on January 25, 2022, his long COVID-19 symptoms of fatigue, poor balance, and cognitive dysfunction had flared up.

In an undated authorization for examination and/or treatment (Form CA-16), Part B, attending physician's report, and a March 8, 2022 attending physician's report (Form CA-20),

Gina Miranda, a physician assistant, related appellant's history of injury and indicated that he needed to be evaluated by a neurologist and cardiologist.

Appellant also submitted a March 9, 2022 report from Henna Shah, a nurse practitioner, who diagnosed cellulitis and interface dermatitis reaction. Ms. Shah noted that appellant had a COVID-19 booster vaccine three weeks prior.

Appellant underwent an electroencephalogram (EEG) on May 18, 2022, which revealed no abnormalities, and a magnetic resonance imaging (MRI) scan of the brain on May 25, 2022, which showed no intercranial pathology.

In an October 14, 2022 form report, Dr. Cascarina diagnosed long COVID-19 and indicated that appellant's condition would likely last for one year. He noted that appellant had difficulty with exertion and concentration, and needed light-duty work. In a November 18, 2022 employing establishment report of medical assessment, he again diagnosed post-COVID-19 syndrome, indicated that appellant had difficulty concentrating, and recommended rest and a reduced work schedule with restrictions.

By decision dated January 13, 2023, OWCP accepted that the January 25, 2022 employment incident occurred, as alleged, but denied appellant's claim, finding that he had not submitted medical evidence containing a medical diagnosis by a physician in connection with his accepted employment incident. It concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

### **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 period 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 first be determined whether fact of injury has been established. There are two components involved in establishing fact of injury. The first component to be established is that the employee must submit sufficient evidence to establish that he or she actually experienced

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

<sup>4</sup> *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> *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> *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).

the employment incident at the time and place, and in the manner alleged. The second component is whether 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 nature of the relationship between the diagnosed condition and specific employment factors identified by the employee.<sup>9</sup>

### **ANALYSIS**

The Board finds that appellant has met his burden of proof to establish diagnosed medical conditions in connection with the accepted January 25, 2022 employment incident.

Appellant submitted an emergency department report dated January 27, 2022 in which Dr. Baksi diagnosed syncope, fatigue, and post-vaccination reaction. He noted that appellant received a COVID vaccine two days prior and reported having body aches since then. The Board finds, therefore, that the report by Dr. Baksi is sufficient to establish diagnosed medical conditions in connection with the accepted employment incident.<sup>10</sup>

Consequently, the case must be remanded for consideration of the medical evidence with regard to the issue of causal relationship.<sup>11</sup> Following this and other such further development as deemed necessary, OWCP shall issue a *de novo* decision.<sup>12</sup>

### **CONCLUSION**

The Board finds that appellant has met his burden of proof to establish diagnosed medical conditions in connection with the accepted January 25, 2022 employment incident.

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<sup>7</sup> *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).

<sup>8</sup> *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).

<sup>9</sup> *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> See *E.T.*, Docket No. 22-1085 (issued January 18, 2023); *E.L.*, Docket No. 21-0587 (issued July 6, 2022); see also *T.C.*, Docket No. 17-0624 (issued December 19, 2017).

<sup>11</sup> See *S.R.*, Docket No. 22-0421 (issued July 15, 2022); *S.A.*, Docket No. 20-1498 (issued March 11, 2021).

<sup>12</sup> The Board notes that the employing establishment executed a Form CA-16. A properly completed Form CA-16 form 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. The period for which treatment is authorized by a Form CA-16 is limited to 60 days from the date of issuance, unless terminated earlier by OWCP. 20 C.F.R. § 10.300(c); *P.R.*, Docket No. 18-0737 (issued November 2, 2018); *N.M.*, Docket No. 17-1655 (issued January 24, 2018); *Tracy P. Spillane*, 54 ECAB 608 (2003).

**ORDER**

**IT IS HEREBY ORDERED THAT** the January 13, 2023 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: January 8, 2026  
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  
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