

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

C.M., Appellant)
and)
DEPARTMENT OF TRANSPORTATION,)
FEDERAL AVIATION ADMINISTRATION,)
PHILADELPHIA INTERNATIONAL)
AIRPORT, Philadelphia, PA, Employer)

)

Docket No. 25-0911
Issued: January 9, 2026

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
JANICE B. ASKIN, Judge

JURISDICTION

On September 25, 2025 appellant filed a timely appeal from a September 15, 2025 merit decision of the Office of Workers' Compensation Programs (OWCP).¹ Pursuant to the 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.

¹ Appellant submitted a timely request for oral argument before the Board. 20 C.F.R. § 501.5(b). Pursuant to the Board's *Rules of Procedure*, oral argument may be held in the discretion of the Board. 20 C.F.R. § 501.5(a). Appellant asserts OWCP be directed to obtain an updated medical report from her physician that reflects her current conditions. The Board, in exercising its discretion, denies appellant's request for oral argument because the arguments on appeal can adequately be addressed in a decision based on a review of the case record. Oral argument in this appeal would further delay issuance of a Board decision and not serve a useful purpose. As such, the oral argument request is denied, and this decision is based on the case record as submitted to the Board.

² 5 U.S.C. § 8101 *et seq.*

ISSUE

The issue is whether appellant has established a diagnosed medical condition in connection with the accepted May 15, 2025 employment exposure.

FACTUAL HISTORY

On May 15, 2025 appellant, then a 52-year-old air traffic controller, filed a traumatic injury claim (Form CA-1) alleging that her ear “popped” when a fire alarm rang approximately five feet from her head, causing ringing and “muffled hearing” in both ears, while in the performance of duty. She did not stop work.

In support of her claim, appellant submitted May 20, 2025 emergency department reports by Vy Vu and Sheriff Foday, certified physician assistants, and discharge instructions of even date regarding muffled hearing, tinnitus, and vertigo. She also submitted June 3 and July 10, 2025 reports by Krina Patel, a certified physician assistant, which provided assessments of tinnitus of the right ear, and benign paroxysmal positional vertigo due to bilateral vestibular disorder.

On July 15, 2025 OWCP referred appellant, along with a statement of accepted facts (SOAF) and a series of questions, for a second opinion examination with Dr. Douglas McCorkle, a Board-certified otolaryngologist, to determine whether appellant’s work-related noise exposure was sufficient to have caused a sensorineural hearing loss.

In an August 6, 2025 report, Dr. McCorkle noted his review of the SOAF, obtained an audiological evaluation, and completed OWCP’s evaluation questionnaire. He reviewed an audiogram performed that day, which demonstrated at 500, 1,000, 2,000, and 3,000 Hertz (Hz) losses of 10, 5, 5, and 10 decibels (dBs) in the left ear, and 15, 15, 5, and 15 dBs in the right ear, respectively. Dr. McCorkle noted that review of appellant’s audiogram indicated normal hearing in each ear, throughout all frequencies, and 100 percent bilateral discrimination scores. He related an impression of recent right-sided acoustic trauma which caused a temporary threshold shift, which had resolved, and intermittent right-sided tinnitus.

On August 26, 2025 OWCP referred the medical record, including Dr. McCorkle’s August 6, 2025 report, and a SOAF to Dr. Herbert White Jr., a Board-certified occupational medicine specialist serving as OWCP’s district medical adviser (DMA), for review. In a report dated September 10, 2025, Dr. White found that appellant had zero percent binaural hearing loss. He explained that while appellant had a three percent impairment due to tinnitus, the tinnitus impairment was not ratable unless appellant had a binaural hearing impairment. Dr. White did not otherwise offer a medical diagnosis.

By decision dated September 15, 2025, OWCP accepted that the May 15, 2025 employment incident occurred as alleged, but denied the claim, finding that the medical evidence of record was insufficient to establish a medical diagnosis in connection with the accepted employment exposure.

LEGAL PRECEDENT

An employee seeking benefits under FECA³ 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,⁴ 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.⁵ 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.⁶

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.⁷

The medical evidence required to establish causal relationship between a claimed specific condition and an employment incident is rationalized medical opinion evidence.⁸ 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 incident identified by the employee.⁹

ANALYSIS

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

³ *Id.*

⁴ *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).

⁵ *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).

⁶ *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).

⁷ *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).

⁸ *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).

⁹ *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).

OWCP referred the case record to Dr. McCorkle for a second opinion evaluation. He reviewed an audiogram performed that day, which demonstrated losses of 10, 5, 5, and 10 dBs in the left ear, and 15, 15, 5, and 15 dBs in the right ear. Dr. McCorkle opined that review of appellant's audiogram indicated “[n]ormal hearing in each ear throughout all frequencies.” However, he also noted “she incurred acoustic trauma which caused a temporary threshold shift with muffled hearing, etc.” Dr. McCorkle's report is, therefore, internally inconsistent as to whether appellant sustained a diagnosed condition in connection with the accepted employment incident.

It is well established that proceedings under FECA are not adversarial in nature, nor is OWCP a disinterested arbiter. While the claimant has the burden of proof to establish entitlement to compensation, OWCP shares the responsibility in the development of the evidence to see that justice is done.¹⁰ Once OWCP undertook development of the record it was required to complete that development by procuring medical evidence that would resolve the relevant issue in the case.¹¹

The Board shall, therefore, remand the case to OWCP for further development of the medical evidence. On remand, OWCP shall refer appellant, along with a SOAF, and the case record to a specialist in the appropriate field of medicine for a reasoned opinion as to whether appellant sustained a diagnosed condition in connection with the accepted May 15, 2025 employment exposure. After this and other such further development as deemed necessary, OWCP shall issue a *de novo* decision.

CONCLUSION

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

¹⁰ *M.W.*, Docket No. 20-2052 (issued May 24, 2021); *L.F.*, Docket No. 20-0549 (issued January 27, 2021).

¹¹ See *M.E.*, Docket No. 21-1058 (issued March 2, 2022); *N.W.*, Docket No. 21-0653 (issued September 30, 2021); *J.F.*, Docket No. 17-1716 (issued March 1, 2018).

ORDER

IT IS HEREBY ORDERED THAT the September 15, 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: January 9, 2026
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Deputy Chief Judge
Employees' Compensation Appeals Board

Janice B. Askin, Judge
Employees' Compensation Appeals Board