



## **FACTUAL HISTORY**

On June 27, 2025 appellant, then a 48-year-old nurse, filed a traumatic injury claim (Form CA-1) alleging that at 3:15 p.m. on that date, he sustained a herniated disc and muscle strain when an acute psychiatric ward patient assaulted him in the performance of duty. He stopped work on June 27, 2025. On the reverse side of the claim form, appellant's supervisor acknowledged that appellant was injured in the performance of duty and indicated that his knowledge of the facts comported with appellant's account of events.

OWCP received medical evidence including June 27, 2025 hospital emergency department discharge instructions, which indicated that appellant had been treated by Dr. Jon Daniell, Board-certified in emergency medicine, as of 4:38 p.m. Appellant also was prescribed medication and received instructions for follow-up medical care, including home care for back pain and injury, and herniated disc.

In a development letter dated July 16, 2025, OWCP informed appellant of the deficiencies of his claim. It advised him of the type of factual and medical evidence necessary and provided a questionnaire for his completion. OWCP afforded appellant 60 days to respond. No response was received.

In a follow-up letter dated August 1, 2025, OWCP advised appellant that it had conducted an interim review, and the evidence remained insufficient to establish his claim. It noted that he had 60 days from the July 16, 2025 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 September 15, 2025, OWCP denied appellant's traumatic injury claim, finding that the evidence of record was insufficient to establish that the June 27, 2025 employment incident occurred as alleged. Therefore, it concluded that the requirements had not been met to establish an injury as defined by FECA.

OWCP subsequently received copies of medical evidence, which was previously of record.

On December 14, 2025, appellant requested an oral hearing before a representative of OWCP's Branch of Hearings and Review.

In a December 15, 2025 statement, appellant asserted that on June 27, 2025 an acute psychiatric patient became violent after a shower and required physical restraint. Due to this incident, federal police officers were also summoned. When approached, the patient swung his fists at multiple staff and responding officers. Appellant alleged that as he tried to control the situation while the patient was still throwing punches, he "was shoved off the patient's wet body and fell over." He then experienced tension in his back which "became unbearable." Appellant completed a claim form and sought emergency treatment.

OWCP subsequently received a June 27, 2025 report, wherein Dr. Daniell related appellant's account of left-sided back and flank pain, and left shoulder and elbow pain, after he

helped to restrain a patient that day. On examination, Dr. Daniell observed tenderness to palpation of the bilateral thoracic and lumbar midline regions, and limited range of left shoulder motion with mild tenderness to palpation. He obtained a computerized tomography (CT) scan of the lumbar spine which demonstrated disc protrusions at L4-5 and L5-S1, with mild-to-moderate bilateral neural foraminal stenosis, mild canal stenosis, and subarticular zone stenosis at L4-5. Dr. Daniell also obtained a CT scan of the thoracic spine and left shoulder x-rays within normal limits. He provided an impression of lumbosacral root disorders, unspecified low back pain, thoracic spine pain, sprain of ligaments of lumbar spine, and left shoulder pain. Dr. Daniell prescribed medication.

By decision dated January 2, 2026, OWCP denied appellant's December 14, 2025 request for an oral hearing as untimely filed, pursuant to 5 U.S.C. § 8124(b). It further exercised its discretion and determined that the issue in this case could equally well be addressed by a request for reconsideration before OWCP along with the submission of new evidence.

### **LEGAL PRECEDENT -- ISSUE 1**

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 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>3</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>4</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>5</sup>

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. 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 evidence to establish that the employment incident caused an injury.<sup>6</sup>

To establish that an injury occurred as alleged, the injury does not have to be confirmed by eyewitnesses, but the employee's statements must be consistent with the surrounding facts and

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

<sup>3</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>4</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>5</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>6</sup> *M.P.*, Docket No. 25-0729 (issued September 2, 2025); *R.R.*, Docket No. 25-0535 (issued June 23, 2025); *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. Carlone*, 41 ECAB 354 (1989).

circumstances and his or her subsequent course of action.<sup>7</sup> The employee has not met his or her burden of proof to establish the occurrence of an injury when there are inconsistencies in the evidence that cast serious doubt upon the validity of the claim. Such circumstances as late notification of injury, lack of confirmation of injury, continuing to work without apparent difficulty following the alleged injury, and failure to obtain medical treatment may, if otherwise unexplained, cast serious doubt on an employee's statements in determining whether a *prima facie* case has been established.<sup>8</sup> An employee's statements alleging that an injury occurred at a given time and in a given manner are of great probative value and will stand unless refuted by strong or persuasive evidence.<sup>9</sup>

### **ANALYSIS -- ISSUE 1**

The Board finds that appellant has met his burden of proof to establish a traumatic injury in the performance of duty on June 27, 2025, as alleged.

In his Form CA-1, appellant alleged that, on June 27, 2025, a patient assaulted him at 3:15 p.m. that day. He promptly sought medical treatment on June 27, 2025, as of 4:38 p.m. and was prescribed medication. On the reverse side of the claim form, appellant's supervisor acknowledged that appellant was injured in the performance of duty and indicated that his knowledge of the alleged incident comported with appellant's account of events.

As noted, an employee's statement alleging that an incident occurred at a given time and in a given manner is of great probative value and will stand unless refuted by strong or persuasive evidence.<sup>10</sup> Appellant has established that, on June 27, 2025, he was assaulted by a patient, fell, and experienced back pain. As appellant has provided consistent statements that he was assaulted in the performance of duty, the Board finds that he has established that the employment incident occurred on June 27, 2025, as alleged.

As appellant has established that the June 27, 2025 employment incident occurred as alleged, the question becomes whether this incident caused an injury.<sup>11</sup> The case shall, therefore, be remanded for consideration of the medical evidence. Following any further development as deemed necessary, OWCP shall issue a *de novo* decision.<sup>12</sup>

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<sup>7</sup> *M.F.*, Docket No. 18-1162 (issued April 9, 2019); *Charles B. Ward*, 38 ECAB 667, 67-71 (1987).

<sup>8</sup> *K.H.*, Docket No. 22-0370 (issued July 21, 2022); *Betty J. Smith*, 54 ECAB 174 (2002); *see also L.D.*, Docket No. 16-0199 (issued March 8, 2016).

<sup>9</sup> *See K.H., id.; M.C.*, Docket No. 18-1278 (issued March 7, 2019); *D.B.*, 58 ECAB 464, 466-67 (2007).

<sup>10</sup> *J.M.*, Docket No. 26-0097 (issued February 19, 2026); *B.M.*, Docket No. 21-1185 (issued March 4, 2022); *L.D.*, Docket No. 16-0199 (issued March 8, 2016); *Betty J. Smith*, 54 ECAB 174 (2002).

<sup>11</sup> *See J.M., id.; S.T.*, Docket No. 21-0317 (issued August 11, 2021); *B.S.*, Docket No. 19-0524 (issued August 8, 2019); *Willie J. Clements*, 43 ECAB 244 (1991).

<sup>12</sup> In light of the Board's disposition of Issue 1, Issue 2 is rendered moot.

**CONCLUSION**

The Board finds that appellant has met his burden of proof to establish a traumatic injury in the performance of duty on June 27, 2025, as alleged.

**ORDER**

**IT IS HEREBY ORDERED THAT** the September 15, 2025 decision of the Office of Workers' Compensation Programs is reversed. The January 2, 2026 decision of Office of the Workers' Compensation Programs is set aside as moot.

Issued: May 13, 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