United States Department of Labor
Employees' Compensation Appeals Board

J.F., claiming as widow of K.F., Appellant	)	
and	)	
DEPARTMENT OF THE ARMY, TANK -- AUTOMOTIVE & ARMAMENT COMMAND, SIERRA ARMY DEPOT, Herlong, CA, Employer	)	**Docket No. 26-0571** **Issued: September 16, 2026**

Appearances:
Steven E. Brown, Esq., for the appellant[1]
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 June 5, 2026 appellant, through counsel, filed a timely appeal from a March 4, 2026 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act[2] (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

[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.

[2] 5 U.S.C. § 8101 *et seq*.

ISSUE

The issue is whether appellant has met her burden of proof to establish that the employee's death on May 9, 2019 was causally related to the accepted factors of his federal employment.

FACTUAL HISTORY

This case has previously been before the Board.[3] The facts and circumstances of the case as set forth in the Board's prior decision are incorporated herein by reference. The relevant facts are as follows.

On October 8, 2019 appellant filed a claim for compensation by widow (Form CA-5), alleging that her husband, the employee, passed away on May 9, 2019 due to an employment-related cardiac arrhythmia, cardiomegaly, and left ventricular hypertrophy. The employee, then a 48-year-old management and program analyst, was on temporary-duty travel status when he was found deceased in his hotel room on May 9, 2019.

The accepted facts of this case indicate that, on May 8, 2019, the employee and his coworkers returned to their hotel after a work-related training session and then dining together at a nearby restaurant. During dinner, the employee consumed alcohol. Upon returning to the hotel, the employee and his coworkers spent time by the pool where the employee continued to consume alcohol. Sworn statements indicate that his coworkers then decided to help him back to his room as he appeared to be inebriated. S.A., a coworker, indicated that he stayed with the employee in his hotel room and managed to get him into bed. The employee vomited in bed, which S.A. cleaned up. S.A. indicated that he then placed a clean towel under the employee's head and pillows behind the employee's back to prevent him from rolling. The next morning, S.A. found the employee in the same position unresponsive in bed. The record also contains a May 17, 2019 crime scene report and the May 9, 2019 police department incident/investigation report and reporting officer narrative.

In a June 13, 2019 autopsy report, Dr. Mark Peters, a forensic pathologist, opined that the immediate cause of the employee's death was a cardiac arrhythmia caused by cardiomegaly resulting from left ventricular hypertrophy. Toxicology results indicated a blood ethanol level of 295 mg/d. The employee's June 14, 2019 death certificate indicated the cause of death as a cardiac arrhythmia caused by cardiomegaly resulting from left ventricular hypertrophy.

In an August 12, 2019 report, Dr. David I. Krohn, a Board-certified internist serving as OWCP's district medical adviser (DMA), reviewed a July 17, 2019 statement of accepted facts (SOAF) and the medical records. He disagreed with Dr. Peters' determination of cardiac arrhythmia as the cause of death, noting there was no objective way to demonstrate that the employee's death was due to cardiac arrhythmia because the employee's body was in complete and fixed rigor mortis at the time of autopsy. Dr. Krohn opined that the more likely cause of the employee's death was death due to coma and respiratory depression caused by acute alcohol poisoning unrelated to his employment. He noted there was no past history of alcoholism or

[3] Docket No. 23-0871 (issued March 17, 2025).

evidence in the record to suggest that a trigger to either alcohol ingestion or an arrhythmia resulted from work-related training activities.

In an October 21, 2019 letter, OWCP informed appellant of the deficiencies of her survivor benefits claim. It advised her of the type of evidence needed and afforded her 30 days to submit the requested information. No additional evidence was received.

By decision dated December 3, 2019, OWCP denied appellant's survivor benefits claim.

On December 24, 2019, appellant, through counsel, requested reconsideration. Counsel argued that there was an unresolved conflict in medical opinion regarding the cause of the employee's death. No additional evidence was received.

By decision dated March 13, 2020, OWCP modified its December 3, 2019 decision to deny appellant's claim for survivor benefits as the employee's death on May 9, 2019 did not occur in the performance of duty. It found that the employee had deviated from his assigned duties and had engaged in personal conduct, which was not incidental to his work, and which was the proximate cause of his death.

On May 7, 2020, appellant, through counsel, requested reconsideration. Counsel argued that the employee was in travel status when he died, had not deviated from his assignment, and was engaged in a recreational or social activity incidental to or part of his duties.

By decision dated August 4, 2020, OWCP denied modification of its prior decision.

On September 18, 2020, appellant, through counsel, requested reconsideration. Counsel argued that OWCP could not invoke the affirmative defense of intoxication, as it had not done so in the initial decision denying the claim, and that it failed to consider the human instincts doctrine.

By decision dated December 17, 2020, OWCP denied modification of its prior decision.

On May 18, 2021, appellant, through counsel, requested reconsideration.

In a March 13, 2021 letter, a county coroner, Bryan W. Gustafson, R.N., disagreed with the DMA's opinion regarding the cause of the employee's death, maintaining that the employee died as a result of a cardiac arrhythmia. He explained that many individuals are asymptomatic when suffering from cardiomegaly and left ventricular hypertrophy and noted that Dr. Peters would have mentioned the employee's blood alcohol level if it had been a relevant factor in the employee's death. The coroner opined that the employee was in heart failure from his "alleged walk" from the pool to his hotel room.

In a March 24, 2021 report, Dr. Peters agreed with Mr. Gustafson's assessment of the employee's cause of death.

In a February 17, 2022 amended report, Dr. Krohn, the DMA, reviewed the SOAF and the medical record, along with the March 13, 2021 report from Mr. Gustafson's and Dr. Peters' March 24, 2021 report. He concurred with Dr. Peters' opinion that left ventricular hypertrophy was a risk factor for sudden cardiac death as well as overall cardiovascular mortality. However,

the DMA noted that Dr. Peters did not provide the weight of the left ventricle from the autopsy and found the degree of left ventricular hypertrophy "mild." Based on the factual evidence of record that appellant was in possible respiratory distress at the time he was last observed and that he had signs of severe ethanol intoxication, the DMA again opined that the employee's death was more likely caused by respiratory depression secondary to alcohol. He noted that additional information from Dr. Peters, such as an estimate of the weight of the left ventricle post-mortem and rationale for his opinion that the cause of death was due to an arrhythmia, might help to clarify the cause of the employee's death.

In a March 15, 2022 letter, OWCP requested that Dr. Peters provide a supplemental opinion explaining why he found that the employee's cause of death was arrhythmia. It also requested an estimate of the weight of the left ventricle post-mortem and rationale as to why he believed the employee's death was not caused by respiratory depression secondary to alcohol.

In an April 5, 2022 response, Dr. Peters indicated that he did not weigh the employee's left ventricle or have an estimate of it explaining that, due to his experience of dissecting over 10,000 hearts in his career, the left ventricular hypertrophy was apparent to him without having to weigh the ventricle separately. He explained that a fatal cardiac arrhythmia caused by left ventricular hypertrophy was a common cause of natural death determined after autopsy. Dr. Peters indicated that it was rare for death to result from respiratory depression caused by alcohol intoxication, noting that Dr. Krohn's opinion was speculative in that regard.

OWCP declared a conflict in medical opinion between Dr. Peters and Dr. Krohn, regarding the employee's cause of death. It referred to the employee's medical record along with a series of questions, and an updated SOAF, dated June 23, 2022, to Dr. Francisco J. Diaz, a Board-certified cardiologist/pathologist, serving as the impartial medical examiner (IME).

In a February 25, 2023 report, Dr. Diaz, the IME, reviewed the medical record and a June 23, 2022 SOAF. He agreed with Dr. Peters that the employee's cause of death was due to cardiomegaly (enlargement of the heart). Dr. Diaz indicated that the weight of the employee's heart at 580 grams was nearly double the size for an adult male and that cardiomegaly was known, by itself, to induce irregular rhythm of the heart and sudden death. He also opined that the alcohol level in the employee's blood was not sufficient to ascribe the death solely as alcohol intoxication. Dr. Diaz concluded that the employee's death was due to irregular rhythm of the heart due to a significantly enlarged heart.

By decision dated March 16, 2023, OWCP modified its prior decision to find that there was no evidence to establish that the employee's death was causally related to the accepted factors of his federal employment. OWCP accorded the special weight of the medical evidence to Dr. Diaz, the IME.

Appellant filed a timely appeal to the Board. By decision dated March 17, 2025, the Board set aside the March 16, 2023 decision, finding that a supplemental report from Dr. Diaz was

needed to clarify whether the employee's federal employment contributed to his death by either causation, aggravation, and/or precipitation.[4]

OWCP requested that Dr. Diaz provide a supplemental report.

In an October 5, 2025 addendum report, Dr. Diaz stated that he stood by his original opinion of 2023 that he concurred with the opinion of Dr. Peters as it pertained to the cause of death and to the mechanism and physiology behind the chain of cardiovascular events that led to the employee's death. He stated that the death certificate fulfilled the mandate by providing the cause of death and underlying condition that led to the death. Dr. Diaz found that the employee had significant cardiomegaly (enlarged heart). He explained that the larger the heart became, the more inefficient it was and that the direct consequences were inefficiency in pumping and disruptions in the electrical conductivity which, in isolation or in tandem, create irregular rhythms of the heart and sudden death. Dr. Diaz stated it was an anatomic finding that a 40-year-old male has a known risk factor of dysrhythmia. He indicated that while the left ventricles were not weighed at autopsy, the total weight of the heart was determinative which, as noted in his original report, was nearly doubled in the absence of congestive heart failure. Thus, Dr. Diaz concluded that the death certificate was proper regarding the employee's cause of death. He further opined that while the employee had died under the influence of alcohol, the level was not enough to ascribe the death to it.

By *de novo* decision dated March 4, 2026, OWCP denied appellant's survivor benefits claim. It again found that the special weight of the evidence rested with Dr. Diaz, the IME.

LEGAL PRECEDENT

The United States shall pay compensation for the disability or death of an employee resulting from personal injury sustained while in the performance of duty.[5] An award of compensation in a survivor's claim may not be based on surmise, conjecture, or speculation or on appellant's belief that the employee's death was caused, precipitated, or aggravated by the employment.[6] Appellant has the burden of proof to establish by the weight of the reliable, probative, and substantial medical evidence that the employee's death was causally related to an employment injury or to factors of his or her federal employment. As part of this burden, appellant must submit a rationalized medical opinion, based upon a complete and accurate factual and medical background, showing a causal relationship between the employee's death and an employment injury or factors of his or her federal employment.

Causal relationship is a medical issue and can be established only by medical evidence.[7] The mere showing that an employee was receiving compensation for total disability at the time of

[4] *Id.*

[5] 5 U.S.C. § 8133.

[6] *W.C.,* Docket No. 18-0531 (issued November 1, 2018).

[7] *See G.B. (M.B.),* Docket No. 22-0446 (issued November 22, 2024); *R.G. (K.G.),* Docket No. 19-1059 (issued July 28, 2020); *L.R.(E.R.),* 58 ECAB 369 (2007).

his or her death does not establish that the employee's death was causally related to the previous employment.[8] The Board has held that it is not necessary that there is a significant contribution of employment factors to establish causal relationship.[9] If the employment contributed to the employee's death, then causal relationship is established.[10]

ANALYSIS

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

In his initial report dated February 25, 2023, Dr. Diaz, the IME, reviewed appellant's history of injury, the June 23, 2022 SOAF and the medical evidence. He opined that the employee's death was due to an arrythmia of the heart due to a significantly enlarged heart. Dr. Diaz explained that the employee's heart weighed nearly double the size for an adult male and that cardiomegaly was known, by itself, to induce irregular rhythm of the heart and sudden death. He also explained that the alcohol level in the employee's blood was not alone sufficient to have caused the death.

In an October 5, 2025 addendum report, Dr. Diaz stated that he stood by his original opinion of 2023. He found that the employee had a known risk factor of dysrhythmia and had significant cardiomegaly (enlarged heart), which was known to cause inefficiency in pumping and disruptions in the electrical conductivity and create, in isolation or in tandem, irregular rhythms of the heart and sudden death. Dr. Diaz further opined that while the employee had died under the influence of alcohol, the level was not enough to ascribe the death to it. However, he did not sufficiently address whether the accepted factors of the employee's federal employment contributed to his death by either causation, aggravation, and/or precipitation.

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.[11] It has an obligation to see that justice is done.[12] Once it undertakes development of the record, it must do a complete job in procuring medical evidence that will resolve the relevant issues in the case.[13] As it undertook development of the

[8] *G.B. (M.B.), id.*; *P.G. (J.G.),* Docket No. 20-0815 (issued December 10, 2020); *Edna M. Davis (Kenneth L. Davis),* 42 ECAB 728 (1991).

[9] *See P.G. (J.G.), id.*; *T.H. (M.H.),* Docket No. 12-1018 (issued November 2, 2012).

[10] *Id.*; *see also G.B. (M.B.), supra* note 8.

[11] *See M.G.,* Docket No. 18-1310 (issued April 16, 2019); *Walter A. Fundinger, Jr.,* 37 ECAB 200, 204 (1985); *Michael Gallo,* 29 ECAB 159, 161 (1978); *William N. Saathoff,* 8 ECAB 769, 770-71; *Dorothy L. Sidwell,* 36 ECAB 699, 707 (1985).

[12] *See A.J.,* Docket No. 18-0905 (issued December 10, 2018); *William J. Cantrell,* 34 ECAB 1233, 1237 (1983); *Gertrude E. Evans,* 26 ECAB 195 (1974).

[13] *See P.H.,* Docket No. 24-0897 (issued November 20, 2024); *S.R.,* Docket No. 17-1118 (issued April 5, 2018); *Nancy Lackner (Jack D. Lackner),* 40 ECAB 232, 238 (1988); *Harold Travis,* 30 ECAB 1071, 1078 (1979).

evidence by referring appellant to Dr. Diaz, it had the duty to secure a sufficiently-rationalized report to resolve the relevant issue.

In a situation where OWCP secures an opinion from an IME for the purpose of resolving a conflict in the medical evidence and the opinion from such examiner requires clarification or elaboration, it has the responsibility to secure a supplemental report from the examiner for the purpose of correcting the defect in the original opinion.[14] As Dr. Diaz' opinion was deficient, OWCP shall obtain further clarification regarding whether the employee's federal employment contributed to his death by either causation, aggravation, and/or precipitation.[15] Following 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.

ORDER

IT IS HEREBY ORDERED THAT the March 4, 2026 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: September 16, 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

[14] *Id.*; *see also F.H.,* Docket No. 17-1924 (issued January 25, 2019); *Talmadge Miller,* 47 ECAB 673 (1996).

[15] *S.C.,* Docket No. 24-0582 (issued September 16, 2024); *L.R.,* Docket No. 21-1312 (issued March 6, 2023); *Harold Travis, supra* note 13.