

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

J.H., Appellant)
)
)
and) **Docket No. 19-1435**
) **Issued: February 6, 2020**
)
DEPARTMENT OF HOMELAND SECURITY,)
CUSTOMS & BORDER PROTECTION,)
Buffalo, NY, Employer)

Appearances:
Appellant, pro se
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
ALEC J. KOROMILAS, Alternate Judge

JURISDICTION

On June 17, 2019 appellant filed a timely appeal from a May 13, 2019 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act¹ (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.²

ISSUE

The issue is whether appellant has met his burden of proof to establish a left eye condition causally related to the accepted March 18, 2019 employment incident.

¹ 5 U.S.C. § 8101 *et seq.*

² The Board notes that, following the May 13, 2019 decision, OWCP received additional evidence. 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 March 31, 2019 appellant, then a 54-year-old customs and border protection officer, filed a traumatic injury claim (Form CA-1) alleging that on March 18, 2019 he sustained an injury to his left eye during defensive tactics training while in the performance of duty. He stopped work on March 31, 2019.

In a memorandum to his supervisor, dated March 31, 2019, appellant explained that he had participated in intermediate force training at Wolcott Guns training range on March 18, 2019 when he sustained a left eye injury at approximately 11:00 a.m. He stated that his training consisted of baton and OC spray instruction, as well as physical contact with instructors. Appellant was diagnosed with left retina tear and was immediately scheduled for surgery on April 3, 2019.

In an undated memorandum, the employing establishment described the training that appellant underwent and argued that the drills placed minimal stress upon the students and were easy tasks to complete. It further noted that appellant did not report any injuries at the time.

In a letter dated April 8, 2019, OWCP indicated that when appellant's claim was first received it appeared to be a minor injury that resulted in minimal or no lost time from work and, based on these criteria and because the employing establishment did not controvert continuation of pay or challenge the case, payment of a limited amount of medical expenses was administratively approved. It stated that it had reopened the claim for formal consideration of the merits because appellant had not returned to work in a full-time capacity. OWCP afforded him 30 days to submit additional factual and medical evidence.

In a report dated March 28, 2019, Dr. Ramakrishna Ratnakaram, a Board-certified ophthalmologist, diagnosed localized retinal detachment, visually significant floaters, and nuclear sclerosis. He also submitted an attending physician's report (Form CA-20) dated April 4, 2019 diagnosing retinal detachment of the left eye due to trauma to the eye. Dr. Ratnakaram noted that appellant did not provide a history of injury at his initial visit on March 28, 2019, but had done so subsequently on April 2, 2019.

On April 8, 2019 the employing establishment submitted a narrative statement describing appellant's training exercises on March 18, 2019 and explaining that appellant was wearing body armor as personal protective equipment.

In a work capacity evaluation (Form OWCP-5c) and a duty status report (Form CA-17) dated April 11, 2019, Dr. Ratnakaram confirmed that appellant had undergone surgical repair of the retinal detachment of his left eye and opined that he was totally disabled for work.

In progress reports dated April 6 and 11 and May 2, 2019, Dr. Ratnakaram diagnosed resolved macular retinal detachment.

In an April 22, 2019 report, Dr. Ratnakaram indicated that he first saw appellant on March 29, 2019 for a visual problem he was experiencing. He stated, at that time, that he had been experiencing floaters with distortion in both eyes, more on the left. It was noted that appellant had a horseshoe retinal tear with a small detachment in the left eye and had been scheduled for surgery on April 3, 2019. Dr. Ratnakaram further indicated that he was informed on April 2, 2019 that appellant had experienced a blunt injury to his eye at a gun range and it was now a workers'

compensation claim. He postponed the surgery to April 5, 2019 in order to attempt to contact the proper party for documentation and authorization purposes. Dr. Ratnakaram stated that he had issues with communication, but proceeded with the surgery on April 5, 2019 in order to avoid further delay that could lead to progression of a full retinal detachment. He opined that any physical impact (trauma) to the head/eye area would be a “contributing factor” of a subsequent retinal tear or detachment.

In a May 2, 2019 report, Dr. Ratnakaram again related that appellant was seen for a postoperative check of his resolved macula retinal detachment.

By decision dated May 13, 2019, OWCP found that appellant had established that the March 18, 2019 employment incident occurred as alleged. It determined, however, that the medical evidence of record was insufficient to establish that appellant sustained a condition causally related to the accepted employment incident.

LEGAL PRECEDENT

An employee seeking benefits under FECA³ has the burden of proof to establish the essential elements of his or her claim, including the fact 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

In order to determine whether a federal employee has sustained a traumatic injury in the performance of duty, OWCP must first determine whether fact of injury has been established.⁷ There are two components involved in establishing fact of injury. 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.⁸ Second, the employee must submit evidence, generally only in the form of probative medical evidence, to establish that the employment incident caused a personal injury.⁹

³ *Supra* note 1.

⁴ *S.B.*, Docket No. 17-1779 (issued February 7, 2018); *J.P.*, 59 ECAB 178 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

⁵ *J.M.*, Docket No. 17-0284 (issued February 7, 2018); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

⁶ *K.M.*, Docket No. 15-1660 (issued September 16, 2016); *L.M.*, Docket No. 13-1402 (issued February 7, 2014); *Delores C. Ellyett*, 41 ECAB 992 (1990).

⁷ *D.B.*, Docket No. 18-1348 (issued January 4, 2019); *S.P.*, 59 ECAB 184 (2007).

⁸ *D.S.*, Docket No. 17-1422 (issued November 9, 2017); *Bonnie A. Contreras*, 57 ECAB 364 (2006).

⁹ *B.M.*, Docket No. 17-0796 (issued July 5, 2018); *David Apgar*, 57 ECAB 137 (2005); *John J. Carlone*, 41 ECAB 354 (1989).

To establish causal relationship between the condition, as well as any attendant disability claimed and the employment event or incident, the employee must submit rationalized medical opinion evidence.¹⁰ 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 the specific employment factor(s) identified by the employee.¹¹ The weight of the medical evidence is determined by its reliability, its probative value, its convincing quality, the care of analysis manifested, and the medical rationale expressed in support of the physician's opinion.¹²

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish a left eye condition causally related to the accepted March 18, 2019 employment incident.

In support of his claim, appellant submitted several reports from Dr. Ratnakaram, his treating ophthalmologist. Initially, in his report dated March 28, 2019, Dr. Ratnakaram diagnosed localized retinal detachment, floaters, and nuclear sclerosis. However, he offered no opinion regarding the cause of these conditions. The Board has held that medical evidence that does not offer an opinion regarding the cause of an employee's condition is of no probative value regarding the issue of causal relationship.¹³ In his report dated April 4, 2019, Dr. Ratnakaram related that appellant had not provided a history of injury during his initial visit of March 28, 2019, but did so subsequently on April 2, 2019. He, however, did provide a medical opinion regarding causal relationship. As such, this report is insufficient to establish causal relationship.¹⁴

Dr. Ratnakaram thereafter submitted progress reports dated April 6, 11, and May 2, 2019 wherein he related that appellant had undergone surgical repair of his left eye retinal detachment. However, he again offered no opinion regarding the cause of appellant's diagnosed condition.¹⁵ These reports were therefore insufficient to establish causal relationship.

In his report dated April 22, 2019, Dr. Ratnakaram related that appellant had experienced a blunt force injury to his left eye during the accepted training exercise, and he opined that any physical impact to the head/eye area would be a contributing factor to retinal tear or detachment. He did not, however, provide a pathophysiological explanation as to how the employment incident caused or contributed to the diagnosed conditions.¹⁶ Dr. Ratnakaram's opinion was conclusory

¹⁰ See *S.A.*, Docket No. 18-0399 (issued October 16, 2018); see also *Robert G. Morris*, 48 ECAB 238 (1996).

¹¹ *M.V.*, Docket No. 18-0884 (issued December 28, 2018); *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 345 (1989).

¹² *R.T.*, Docket No. 19-1346 (issued December 4, 2019); *James Mack*, 43 ECAB 321 (1991).

¹³ See *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

¹⁴ *Id.*

¹⁵ *Supra* note 13.

¹⁶ *Id.*

and lacked the specificity and detail needed to establish appellant's claim. Thus, this report was also insufficient to meet appellant's burden of proof.¹⁷

As appellant has not submitted rationalized medical evidence sufficient to establish a condition causally related to the accepted employment incident, the Board finds that he has not met his burden of proof.

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

CONCLUSION

The Board finds that appellant has not met his burden of proof to establish a left eye condition causally related to the accepted March 18, 2019 employment incident.

ORDER

IT IS HEREBY ORDERED THAT the May 13, 2019 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: February 6, 2020
Washington, DC

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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

¹⁷ See *T.R.*, Docket No. 18-1272 (issued February 15, 2019).