

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

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R.P., Appellant )  
 )  
and ) **Docket No. 20-0173**  
 ) **Issued: May 21, 2020**  
U.S. POSTAL SERVICE, POST OFFICE, )  
Henderson, NV, Employer )  
\_\_\_\_\_ )

*Appearances:*  
*Appellant, pro se*  
*Office of Solicitor, for the Director*

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:  
CHRISTOPHER J. GODFREY, Deputy Chief Judge  
PATRICIA H. FITZGERALD, Alternate Judge  
VALERIE D. EVANS-HARRELL, Alternate Judge

**JURISDICTION**

On October 29, 2019 appellant filed a timely appeal from an October 16, 2019 merit decision of the Office of Workers' Compensation Programs.<sup>1</sup> Pursuant to the Federal Employees' Compensation Act<sup>2</sup> (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

**ISSUE**

The issue is whether appellant has met his burden of proof to establish a medical condition causally related to the accepted August 19, 2019 employment incident.

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<sup>1</sup> Appellant also filed a timely request for oral argument pursuant to section 501.5(b) of the Board's *Rules of Procedure*. 20 C.F.R. § 501.5(b). By order issued on May 14, 2020, the Board exercised its discretion and denied the request as the matter could be adequately addressed based on a review of the case record. *Order Denying Request for Oral Argument*, Docket No. 20-0173 (issued May 14, 2020).

<sup>2</sup> 5 U.S.C. § 8101 *et seq.*

## **FACTUAL HISTORY**

On August 27, 2019 appellant, then a 29-year-old city carrier assistant, filed a traumatic injury claim (Form CA-1) alleging that on August 19, 2019 he suffered heat exhaustion when delivering mail in his postal truck while in the performance of duty. He noted that his body began to cramp up, resulting in injuries to his back and legs. Appellant stopped work and first received medical treatment on the date of injury. On the reverse side of the claim form, appellant's supervisor reported that appellant declined to go to the emergency room for treatment.

In a development letter dated September 13, 2019, OWCP notified appellant that his claim was initially administratively handled to allow medical payments, as it appeared to involve a minor injury resulting in minimal or no lost time from work. However, appellant's claim had been reopened for consideration of the merits because he had not returned to work in a full-time capacity. OWCP informed him of the deficiencies of claim, advised him of the type of medical and factual evidence needed to establish his claim, and provided a questionnaire for his completion. It afforded appellant 30 days to submit the necessary evidence.

In a September 30, 2019 response to OWCP's development questionnaire, appellant described the circumstances surrounding the alleged August 19, 2019 employment incident. He reported that, on that date, he was on his mail route delivering mail in a truck without an air conditioner, and the high temperature that day exceeded 100 degrees. Appellant reported that around 2:30 p.m. he began to experience heat exhaustion and cramping, causing injury to his back. He continued working until approximately 2:50 p.m. when his supervisor finally pulled him off his route and called the paramedics. Appellant reported that the incident caused cramping/muscle spasms, dehydration, and a back injury. He was seen by the ambulance paramedics on that date and was cleared to go home. However, appellant's back condition did not improve, causing him to seek further medical treatment. Appellant reported that he did not return to work until September 2, 2019 because the employing establishment would not allow him to return to work until his attending physician cleared him for duty.

An August 26, 2019 medical report from Dr. Brock E. Cardon, Board-certified in family medicine, discussed the incident when appellant experienced heat exhaustion. Dr. Cardon noted that appellant had ongoing back pain with shooting pain down his legs for approximately one week. He provided findings on physical examination and diagnosed low back pain. Dr. Cardon suspected a musculoskeletal etiology with some spasm and mild radicular symptoms. He further suspected strain secondary to recent muscle cramping with an episode of heat exhaustion. In an accompanying work excuse note, Dr. Cardon reported that appellant could return to work on September 2, 2019.

In a September 11, 2019 follow-up evaluation, Captain Alexis J. Scott, a family medicine resident physician, noted appellant's complaints of continued back pain since his visit with Dr. Cardon. She diagnosed low back pain, acute *versus* chronic, which was not worsening. Dr. Scott noted that it was likely a muscle spasm and there was no firm evidence of disc or nerve root compression, infection, fracture, or spinal stenosis at any level. Appellant was advised to continue conservative therapy and home exercises. In an accompanying work excuse note, Dr. Scott reported that appellant could return to regular-duty work on September 18, 2019.

By decision dated October 16, 2019, OWCP accepted that the August 19, 2019 employment incident occurred as alleged, but denied appellant's traumatic injury claim finding that the evidence of record did not include medical evidence containing a diagnosis in connection with the accepted employment incident. As such, it found that he had not established the medical component of fact of injury.

### **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 the fact that the individual is an employee of the United States within the meaning of FECA, that the claim was filed within the applicable time limitation of FECA,<sup>4</sup> that an injury was sustained while in the performance of duty as alleged, and that any disability or specific 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 on 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 first must be determined whether fact of injury has been established.<sup>7</sup> Fact of injury consists of two components that must be considered in conjunction with one another. The first component is whether the employee actually experienced the employment incident that allegedly occurred.<sup>8</sup> The second component is whether the employment incident caused a personal injury.<sup>9</sup>

Causal relationship is a medical issue and the medical evidence required to establish causal relationship is rationalized medical opinion evidence. The opinion of the physician must be based on a complete factual and medical background of the claimant, 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 incident.<sup>10</sup>

### **ANALYSIS**

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

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

<sup>4</sup> *S.C.*, Docket No. 18-1242 (issued March 13, 2019); *J.P.*, 59 ECAB 178 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

<sup>5</sup> *T.H.*, Docket No. 18-1736 (issued March 13, 2019); *R.C.*, 59 ECAB 427 (2008).

<sup>6</sup> *T.E.*, Docket No. 18-1595 (issued March 13, 2019); *Delores C. Ellyett*, 41 ECAB 992 (1990).

<sup>7</sup> *S.S.*, Docket No. 18-1488 (issued March 11, 2019); *T.H.*, 59 ECAB 388 (2008).

<sup>8</sup> *E.M.*, Docket No. 18-1599 (issued March 7, 2019); *Bonnie A. Contreras*, 57 ECAB 364 (2006).

<sup>9</sup> *Id.*

<sup>10</sup> *See S.S.*, *supra* note 7; *H.B.*, Docket No. 18-0781 (issued September 5, 2018).

OWCP has accepted that appellant was delivering mail in a vehicle without air conditioning in 100-degree heat on August 19, 2019. In support of his claim, appellant submitted a medical report from Dr. Cardon dated August 26, 2019 in which he found that appellant had experienced an episode of heat exhaustion, with associated cramping of his back. Heat exhaustion has been determined by the Board to be a firm diagnosis.<sup>11</sup> The Board therefore finds that the evidence of record establishes the diagnosis of heat exhaustion.

OWCP has not reviewed the medical evidence of record on the issue of whether the established diagnosis of heat exhaustion is causally related to the accepted employment incident. Therefore, the case will be remanded to OWCP for consideration of the medical evidence on the issue of causal relationship. Following such further development as deemed necessary, OWCP shall issue a *de novo* decision.

### **CONCLUSION**

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

### **ORDER**

**IT IS HEREBY ORDERED THAT** the October 16, 2019 decision of the Office of Workers' Compensation Programs is set aside and this case is remanded for further proceedings consistent with this decision of the Board.

Issued: May 21, 2020  
Washington, DC

Christopher J. Godfrey, Deputy Chief Judge  
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Alternate Judge  
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge  
Employees' Compensation Appeals Board

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<sup>11</sup> See *A.A.*, Docket No. 18-0031 (issued April 5, 2018); *E.E.*, Docket No. 16-1857 (issued September 26, 2017).