

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

D.C., Appellant)

and)

DEPARTMENT OF THE NAVY, NAVAL)
INSTALLATIONS COMMAND, San Diego, CA,)
Employer)

**Docket No. 22-0084
Issued: April 22, 2022**

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 October 27, 2021 appellant filed a timely appeal from an October 15, 2021 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

¹ 5 U.S.C. § 8101 *et seq.*

² The Board notes that, following the October 15, 2021 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.

ISSUE

The issue is whether appellant has met his burden of proof to establish a diagnosed medical condition causally related to the accepted August 18, 2021 employment incident.

FACTUAL HISTORY

On August 25, 2021 appellant, then a 24-year-old rural police officer, filed a traumatic injury claim (Form CA-1) alleging that on August 18, 2021 he sustained puncture wounds to his right forearm when a military working dog (MWD) attacked him during an obedience training while in the performance of duty. On the reverse side of the claim form B.B., an employing establishment supervisor, acknowledged that appellant was in the performance of duty when injured and that his knowledge of the facts about the injury agreed with appellant and witness statements. He did not stop work.

OWCP received a notification of personnel action (Standard Form SF-50) from the employing establishment detailing appellant's employee and position information.

In a development letter dated September 3, 2021, OWCP informed appellant of the deficiencies of his claim. It advised him of the type of factual and medical evidence necessary to establish his claim, including a narrative medical report from appellant's treating physician, which contains a detailed description of findings and a diagnosis, explaining how the claimed employment incident caused, contributed to, or aggravated his medical conditions. OWCP afforded appellant 30 days to respond. No response was received.

By decision dated October 15, 2021, OWCP denied appellant's traumatic injury claim, finding that he had not established a diagnosed medical condition causally related to the accepted August 18, 2021 employment incident. It concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

LEGAL PRECEDENT

A claimant 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

³ *Supra* note 1.

⁴ *F.H.*, Docket No.18-0869 (issued January 29, 2020); *J.P.*, Docket No. 19-0129 (issued December 13, 2019); *Joe D. Cameron*, 41 ECAB 153 (1989).

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 first must be determined whether fact of injury has been established. 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. The second component is whether the employment incident caused a personal injury.⁷

The medical evidence required to establish causal relationship is rationalized medical opinion evidence.⁸ Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. 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 specific employment factors identified by the claimant.⁹

Pursuant to OWCP's procedures, no development of a claim is necessary where the condition reported is a minor one which can be identified on visual inspection by a lay person (*e.g.*, burn, laceration, insect sting, or animal bite).¹⁰ No medical report is required to establish a minor condition such as a laceration.¹¹ OWCP's procedures further provide that, in cases of serious injury (motor vehicle accident, stabbings, shootings, etc.) if the employing establishment does not dispute the facts of the case, and there are no questionable circumstances, the case may be accepted for a minor condition, such as laceration, without a medical report, while simultaneously developing the case for other more serious conditions. This is true even if there is lost time due to such a serious injury.¹²

⁵ *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 *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 *T.H.*, Docket No. 19-0599 (issued January 28, 2020); *K.L.*, Docket No. 18-1029 (issued January 9, 2019); *John J. Carlone*, 41 ECAB 354 (1989).

⁸ *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 *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).

¹⁰ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Initial Development of Claims*, Chapter 2.800.6(a) (June 2011).

¹¹ *Id.*

¹² Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3(c) (January 2013).

ANALYSIS

The Board finds that appellant has met his burden of proof to establish a puncture wound on his right forearm causally related to the accepted August 18, 2021 employment incident.

Appellant noted on his claim form that he suffered seven puncture wounds to his right forearm following a dog bite injury. The Board finds that the description of the condition, a dog bite to his left forearm and resultant puncture wounds, and history of injury, is the type of minor condition identifiable on visual inspection by a lay person for which OWCP's procedures allows the acceptance of a claim without a medical report from a qualified physician.¹³ The supervisor, on the August 30, 2021 Form CA-1, acknowledged appellant's statement that he sustained a dog bite to his right forearm while in the performance of duty. As the evidence of record establishes visible injuries, the Board finds that appellant has met his burden of proof to establish puncture wounds causally related to the accepted August 18, 2021 employment incident. The case will, therefore, be remanded for payment of medical expenses and any attendant disability.

CONCLUSION

The Board finds that appellant has met his burden of proof to establish right forearm puncture wounds causally related to the accepted August 18, 2021 employment incident.

¹³ *Supra* note 10; A.C., Docket No. 20-0703 (issued December 22, 2020); L.B. Docket No. 21-1136 (issued January 14, 2022) (the Board accepted a dog bite as causally related to the accepted employment incident).

ORDER

IT IS HEREBY ORDERED THAT the October 15, 2021 decision of the Office of Workers' Compensation Programs is reversed.

Issued: April 22, 2022
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