

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

H.C., Appellant	)	
	)	
and	)	Docket No. 23-1071
	)	Issued: August 14, 2024
U.S. POSTAL SERVICE, CARDISS COLLINS	)	
POST OFFICE, Chicago, IL, Employer	)	
	)	

*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  
VALERIE D. EVANS-HARRELL, Alternate Judge

**JURISDICTION**

On August 4, 2023 appellant filed a timely appeal from a June 14, 2023 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act<sup>1</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 diagnosis of COVID-19 causally related to the accepted employment exposure.

**FACTUAL HISTORY**

On March 18, 2023 appellant, then a 55-year-old custodian, filed an occupational disease claim (Form CA-2) alleging that he developed COVID-19 due to factors of his federal employment, including exposure to coworkers who had contracted the condition. Appellant noted

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<sup>1</sup> 5 U.S.C. § 8101 *et seq.*

that he first became aware of his condition and realized its relation to his federal employment on February 26, 2023. He stopped work on February 26, 2023, and returned to work on March 19, 2023.

In support of his claim, appellant submitted an undated note from Dr. Jerome Antony, a Board-certified internist, who related that appellant was incapacitated from work from March 2 through 18, 2023. Antony diagnosed COVID-19 and advised that appellant could return to work on March 19, 2023.

In a development letter dated April 3, 2023, OWCP informed appellant of the deficiencies of his claim. It advised him of the type of factual and medical evidence needed and provided a questionnaire for his completion. OWCP afforded appellant 60 days to provide the necessary evidence. In a separate development letter dated April 3, 2023, it requested information from the employing establishment regarding his claim, including comments from a knowledgeable supervisor. OWCP afforded the employing establishment 30 days to respond.

In an April 21, 2023 response, the employing establishment controverted appellant's claim.

In a follow-up letter dated May 2, 2023, OWCP indicated that it conducted an interim review, and the evidence remained insufficient to establish appellant's claim. It noted that he had 60 days from the April 3, 2023 development letter to submit the requested supporting evidence. OWCP further advised that if the evidence was not received during this time, it would issue a decision based on the evidence contained in the record.

OWCP received a copy of a positive COVID-19 laboratory test result.

OWCP also received appellant's May 11, 2023 response to the development questionnaire. Appellant identified his work location and noted that he worked around people who were coughing and sneezing without wearing a mask. He indicated that he was exposed for eight hours per day and that other individuals were exposed.

Dr. Antony provided a return-to-work certificate received on May 24, 2023. He diagnosed chronic COVID-19, requested that appellant be excused from work from March 23 through 31, 2023, and noted that appellant could return to work on April 1, 2023.

By decision dated June 14, 2023, OWCP accepted the alleged employment exposure and diagnosis of COVID-19. However, it denied the claim finding that appellant had not submitted medical evidence establishing that his diagnosed COVID-19 was causally related to the accepted employment exposure.

### **LEGAL PRECEDENT**

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 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

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<sup>2</sup> *Id.*

limitation of FECA,<sup>3</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>4</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>5</sup>

To establish a claim for COVID-19 diagnosed after January 27, 2023, a claimant must provide: (1) evidence of a COVID-19 diagnosis; (2) evidence that establishes the claimant actually experienced the employment incident(s) or factor(s) alleged to have occurred; (3) evidence that the alleged incident(s) or factor(s) occurred while in the performance of duty; and (4) evidence that the COVID-19 condition is found by a physician to be causally related to the accepted employment incident(s) or factor(s). A rationalized medical report establishing a causal link between a diagnosis of COVID-19 and the accepted employment incident(s)/factor(s) is required in all claims for COVID-19 diagnosed after January 27, 2023.<sup>6</sup>

### ANALYSIS

The Board finds that appellant has not met his burden of proof to establish a diagnosis of COVID-19 causally related to the accepted employment exposure.

In an undated note accompanying the claim, Dr. Antony diagnosed COVID-19 and related that appellant was incapacitated from work from March 2 through 18, 2023. He also provided a return-to-work certificate on May 24, 2023, in which he diagnosed chronic COVID-19 and requested that appellant be excused from work from March 23 through 31, 2023. However, Dr. Antony offered no opinion regarding the cause of appellant's condition. The Board has held that medical evidence that does not offer an opinion regarding the cause of an employee's condition or disability is of no probative value on the issue of causal relationship.<sup>7</sup> Therefore, this evidence is insufficient to establish appellant's claim.

OWCP also received a copy of a positive COVID-19 laboratory test result. The Board has held that diagnostic studies, standing alone, lack probative value as they do not address whether

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<sup>3</sup> *C.B.*, Docket No. 21-1291 (issued April 28, 2022); *S.C.*, Docket No. 18-1242 (issued March 13, 2019); *J.P.*, 59 ECAB 178 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

<sup>4</sup> *L.C.*, Docket No. 19-1301 (issued January 29, 2020); *T.H.*, Docket No. 18-1736 (issued March 13, 2019); *R.C.*, 59 ECAB 427 (2008).

<sup>5</sup> *P.A.*, Docket No. 18-0559 (issued January 29, 2020); *T.E.*, Docket No. 18-1595 (issued March 13, 2019); *Delores C. Ellyett*, 41 ECAB 992 (1990).

<sup>6</sup> FECA Bulletin No. 23-02 (issued December 15, 2022). In accordance with the Congressional intent to end the specialized treatment of COVID-19 claims for Federal workers' compensation under section 4016 of the American Rescue Plan Act (ARPA) of 2021, Public Law 117-2 (March 11, 2021), OWCP issued FECA Bulletin No. 23-02, which updated its procedures for processing claims for COVID-19 diagnosed after January 27, 2023.

<sup>7</sup> *S.C.*, Docket No. 21-0929 (issued April 28, 2023); *see L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

the employment exposure caused a diagnosed medical condition.<sup>8</sup> For this reason, this report has no probative value and is insufficient to establish the claim.

As the evidence of record is insufficient to establish a diagnosis of COVID-19 causally related to the accepted employment exposure, the Board finds that appellant 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 diagnosis of COVID-19 causally related to the accepted employment exposure.

**ORDER**

**IT IS HEREBY ORDERED THAT** the June 14, 2023 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: August 14, 2024  
Washington, DC

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

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

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

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<sup>8</sup> See *M.S.*, Docket No. 22-0417 (issued August 8, 2022); *S.H.*, Docket No. 20-0113 (issued June 24, 2020); *M.L.*, Docket No. 18-0153 (issued January 22, 2020).