

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

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<b>A.G., Appellant</b>	)	
	)	
<b>and</b>	)	<b>Docket No. 24-0137</b>
	)	<b>Issued: August 14, 2024</b>
<b>U.S. POSTAL SERVICE, MENDELL CARRIER</b>	)	
<b>ANNEX POST OFFICE, San Francisco, CA,</b>	)	
<b>Employer</b>	)	
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*Appearances:*  
*Appellant, pro se*  
*Office of Solicitor, for the Director*

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:  
JANICE B. ASKIN, Judge  
VALERIE D. EVANS-HARRELL, Alternate Judge  
JAMES D. MCGINLEY, Alternate Judge

**JURISDICTION**

On November 29, 2023 appellant filed a timely appeal from an October 2, 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 July 22, 2023 appellant, then a 51-year-old city carrier, filed an occupational disease claim (Form CA-2) alleging that on July 17, 2023 he tested positive for COVID-19 during a visit

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

to a clinic. He explained that after working the week of July 11 through 15, 2023, he began to feel sick, and coughed heavily during the night of July 15, 2023. Appellant administered a COVID-19 home test that night, which was negative. He returned to work on July 17, 2023, and took a second home test for COVID-19 after his tour of duty, which was positive. Appellant first became aware of his condition and its relationship to his federal employment on July 15, 2023.

Appellant's July 18, 2023 polymerase chain reaction (PCR) test result, obtained during a visit to an urgent care clinic with Dr. Karen Feeney, an emergency medicine specialist, was positive for COVID-19.

In a development letter dated July 27, 2023, OWCP informed appellant of deficiencies in his claim, stating that the documentation of record was insufficient to support his claim because it did not contain a physician's opinion on causal relationship as to how employment activities caused his COVID-19. It afforded appellant 60 days to submit additional evidence.

In a follow-up letter dated August 22, 2023, OWCP stated that it had conducted an interim review, and the evidence of record remained insufficient to establish his claim. It further noted that she had 60 days from the July 27, 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 thereafter received a statement from appellant dated July 22, 2023, wherein he described the medical course of treatment for his COVID-19 diagnosis. Appellant also explained that he was exposed to COVID-19 at work as restrictions had been removed and many carriers who had tested positive walked through the employing establishment without masks.

Progress notes dated July 31, 2023 related that appellant had lingering chest cough, tightness in chest following a recent positive COVID-19 test. It was also noted that he had a negative COVID-19 test on July 26, 2023.

By decision dated October 2, 2023, OWCP denied appellant's claim, finding that while he had established a diagnosis of COVID-19, the evidence of record was insufficient to establish causal relationship between duties of his federal employment and his diagnosis of COVID-19.

### **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 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

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

<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).

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.

OWCP received progress notes dated July 31, 2023 which related that appellant had lingering chest cough, and tightness in chest following a recent positive COVID-19 test. However, this evidence did not offer a medical opinion regarding the cause of appellant's COVID-19. 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 on the issue of causal relationship.<sup>7</sup> Thus, this evidence is insufficient to establish appellant's claim.

A July 18, 2023 PCR test result was positive for COVID-19. The Board has held that diagnostic studies, standing alone, lack probative value as they do not address whether 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.

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<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> *See F.S.*, Docket No. 23-0112 (issued April 26, 2023); *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

<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).

The Board thus finds that appellant has not submitted probative medical evidence to establish a diagnosis of COVID-19 causally related to the accepted employment exposure. Appellant has therefore 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 October 2, 2023 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: August 14, 2024  
Washington, DC

Janice B. Askin, Judge  
Employees' Compensation Appeals Board

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

James D. McGinley, Alternate Judge  
Employees' Compensation Appeals Board