



## ISSUE

The issue is whether appellant has met his burden of proof to establish respiratory and lumbar conditions causally related to the accepted factors of his federal employment.

## FACTUAL HISTORY

On June 2, 2021 appellant, then a 52-year-old electronic technician, filed an occupational disease claim (Form CA-2) alleging that he developed respiratory issues due to factors of his federal employment when he was exposed to chickens and eggs while at work. He also alleged that he developed a lumbar condition due factors of his federal employment including repetitive bending, stooping, twisting, and carrying heavy items. Appellant noted that he first became aware of his claimed conditions and their relation to his federal employment on August 20, 2019. He stopped work on April 17, 2021.

In a development letter dated June 15, 2021, 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. By separate development letter of even date, OWCP requested additional information from the employing establishment, including comments from a knowledgeable supervisor and information regarding his inhalation exposure to potentially toxic and hazardous substances. It afforded both parties 30 days to submit the necessary evidence.

On March 7, 2019 appellant was treated by Jennifer Vasquez, a nurse practitioner, who diagnosed allergic rhinitis due to pollen and anaphylactic reaction due to food. In a May 20, 2019 certificate of health provider, she noted that appellant had severe anaphylaxis allergies to multiple sources including chicken, eggs, pollen, dust, and animal hair. Ms. Vasquez requested that appellant be allowed breaks for up to 20 minutes to avoid anaphylaxis at work. She referenced allergy testing dated March 14, 2019, which revealed an allergy to eggs and egg products.

Dr. Kyriakos Tsalamandris, Board-certified in emergency medicine, treated appellant on June 16, 2021 for a lumbar spine injury, related to performing repetitive work-related activities, and an allergic reaction to chickens in the workplace. He noted that appellant worked as an electronic technician for 16 years and was exposed daily to live chickens that were delivered through the employing establishment. Dr. Tsalamandris indicated that appellant reported an allergy to chickens since he was a child, which was confirmed by allergy testing in 2018. Appellant noted his first severe reaction to chickens occurred at work with symptoms of shortness of breath, coughing, and itching of the oropharynx and the skin which occurred within 10 minutes after exposure to the chickens. Dr. Tsalamandris noted that appellant was status post three L5-S1 discectomies since 2005 and status post L3 through L5 fusion. He advised that appellant's work duties as an electronic technician over the past 16 years included repetitive bending, lifting heavy packages, pushing and pulling heavy equipment, and extensive walking. Dr. Tsalamandris noted that the repetitive movement caused an exacerbation of his low back pain. He noted that mechanic overuse injuries weaken spinal discs. Dr. Tsalamandris explained that a demanding mechanical environment causes the accumulation of tissue injury and repetitive microtrauma and progressively weakens spinal discs, thereby making them more susceptible to further injury. He further explained that this cycle of accumulating injury outstrips the spinal discs' capability for biologic

repair and that the resulting mechanical damage can include fiber damage, delamination, annulus tears, and associated proteoglycan loss.

Dr. Tsalamandris further noted that dynamic and static compression through repetitive motions causes mechanical damage and alters cell level signals in the spinal discs including fluid flow, cell strain, altered nutrition, and loss of cellularity, which does not allow for complete biologic repair of the mechanically damaged discs. He pointed out that this resulted in accelerated degenerative changes, nerve damage, and radiculopathy. Dr. Tsalamandris diagnosed intervertebral disc disorders with radiculopathy of the lumbar region, lumbar disc disorder with myelopathy, allergy to eggs, and allergic rhinitis due to animal, cat and dog hair, and dander. He indicated that he evaluated appellant's symptoms, clinical signs, objective findings, extensive history, and job description and opined that his injury occurred over a period of time and was due to the repeated stress and strain while performing repetitive duties at work. Dr. Tsalamandris opined that his opinion was based on a complete factual and medical background and was one of reasonable medical certainty. He asserted that his opinion was supported by medical rationale that explained the nature of the causal relationship between the diagnosed condition and the specific employment factors identified.

On June 21, July 19 and August 16, 2021 Kelly Shaw, a physician assistant, treated appellant for exacerbation of a preexisting condition of the lower back due to repetitive work duties and an allergic reaction to eggs. She discussed appellant's medical history and the duties of his work as an electronic technician for 16 years. Ms. Shaw diagnosed radiculopathy due to lumbar intervertebral disc disorder, intervertebral disc disorder of the lumbar region with myelopathy, allergy to egg protein, and allergic rhinitis due to animals. In duty status reports (Form CA-17) dated June 21, July 19, August 16, and October 18, 2021, she diagnosed intervertebral disc disorders with radiculopathy of the lumbar region, intervertebral disc disorder with myelopathy of the lumbar region, allergy to eggs, and allergic rhinitis. Ms. Shaw returned appellant to work full time for eight hours a day with no direct contact or location within the facility with live poultry.

On June 30 and August 18, 2021 Dr. Wesley B. Woods, a chiropractor, treated appellant for exacerbation of a preexisting lumbar condition occurring on August 20, 2019. He diagnosed intervertebral disc disorder of the lumbar region with myelopathy and lumbar radiculopathy.

On July 1, 2021 appellant responded to OWCP's development letter and indicated that his allergic reaction occurred during a pre-tour meeting at the employing establishment in 2019 when chickens were in the hallway and he experienced an itchy throat and coughing. He indicated that the exposure to the chickens occurred while he was in the employing establishment building and noted that one could smell the chickens when entering the building. Appellant noted one allergic reaction outside of the employing establishment occurred at a local store that sold chickens. He indicated that chickens have been present in the workplace for years and that on one occasion he got a tickle in his throat, his lips, tongue and throat started itching, he began coughing, and was he unable to catch his breath. Appellant reported having asthma as a child and advised his last episode was at age 11 or 12. He noted that he formerly smoked but quit after he developed allergies.

In a July 6, 2021 letter, the employing establishment challenged appellant's claim asserting that there was no concrete evidence to support his allegations that employment factors contributed to his claimed illness and conditions. It confirmed that live chickens were housed in the warehouse

next to the dock door to allow for air circulation. The employing establishment noted that the warehouse has overhead air ducts that are of adequate size for the plant to allow for proper ventilation. It indicated that appellant had not been exposed to harmful substances at work such as fumes, dust, or chemicals. The employing establishment noted that there was no assigned seating for personnel awaiting reactive calls and advised that the only requirement for employees was to remain in the facility with their radios turned on. It maintained that air circulation was adequate and that there was no air sample evaluation performed. The employing establishment indicated that in 2019 appellant reported that he was allergic to eggs and brought his own mask to minimize exposure to the chickens. With regard to appellant's allegation of a lumbar condition, it noted that there were calls throughout the night on all the machines that might require bending, stooping, and twisting. Appellant's actual duties did not vary from his official job description.

By decision dated December 28, 2021, OWCP denied appellant's claim, finding that he had not submitted sufficient evidence to establish the claimed employment factors. It concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

OWCP received additional evidence. In CA-17 forms dated September 13, 2021, and February 7, March 7, and April 4, 2022, Ms. Shaw noted diagnoses, in the form of medical codes, and released appellant to work on a full-time basis for eight hours a day with no direct contact at a facility with live poultry.

On January 26, 2022 Dr. Tsalamandris responded to OWCP's December 28, 2021 decision and noted that appellant sustained a work-related injury on August 20, 2019 to his lower back and allergic reaction response to his known allergy to chickens. He advised that appellant worked in mail processing areas that exposed him to chickens as he performed maintenance, calibration, overhaul of equipment, customer service duties, and building services. Dr. Tsalamandris opined that appellant's job duties, including bending and lifting heavy packages, pushing and pulling heavy equipment, and extensive walking, exacerbated his preexisting lower back pain. He diagnosed intervertebral disc disorders with radiculopathy of the lumbar region, lumbar disc disorder with myelopathy, allergy to eggs, and allergic rhinitis due to animal, cat and dog hair, and dander.

On January 27, 2022 appellant requested reconsideration.

By decision dated April 27, 2022, OWCP modified the December 28, 2021 decision, finding that appellant had established the implicated employment factors. The claim remained denied, however, as the medical evidence of record was insufficient to establish causal relationship between the diagnosed medical conditions and the accepted employment factors.

OWCP received additional evidence. Appellant submitted a May 25, 2022 report, wherein Paula Amaro, a nurse practitioner, noted conducting allergy testing on May 12, 2022, which did not demonstrate an allergy to feather mix including chickens. However, she recommended that appellant avoid further exposure to chickens based on his worsening symptoms of shortness of breath, coughing and wheezing when around chickens. The results of the allergy testing done on May 12, 2022 were also submitted.

OWCP received an undated statement from K.S. a co-worker, who witnessed appellant coughing and struggling to breathe after exposure to chickens.

On June 6, 2022 appellant requested reconsideration. In a separate statement, he reiterated that he developed an allergic reaction to chicken and eggs while at work, which caused difficulty breathing. Appellant also asserted that he developed a lumbar condition due to repetitive bending, stooping, twisting, and carrying heavy items while at work. He submitted black and white photographs of the heating and air conditioning systems.

By decision dated October 7, 2022, OWCP denied modification of the April 27, 2022 decision.

Dr. Ronald Cox, Board-certified in allergy and immunology, treated appellant on December 7, 2022 for an allergy to chickens. Appellant reported that there were multiple chickens in his building, and he shipped and delivered them as part of his job. He reported worsening symptoms with exposure to chickens including tongue and lip itching, swelling, and coughing. Dr. Cox diagnosed anaphylaxis to chicken dander.

On January 3, 2023 appellant requested reconsideration.

By decision dated March 21, 2023, OWCP denied modification of the October 7, 2022 decision.

OWCP received additional evidence. On March 7, 2019 Ms. Vasquez treated appellant and diagnosed allergic rhinitis due to pollen, anaphylactic reaction due to food, allergic urticaria, and cough.

Dr. Thomas Martens, an osteopath specializing in family medicine, treated appellant on July 5, August 10, and September 9, 2022 for exacerbation of preexisting lumbar condition and allergies. Appellant reported being allergic to chickens since childhood. Dr. Martens noted that appellant's job duties including bending and lifting heavy packages, pushing and pulling heavy equipment, and extensive walking, which exacerbated his preexisting lower back pain. He diagnosed intervertebral disc disorders with radiculopathy of the lumbar region, intervertebral disc disorder of the lumbar region with myelopathy, allergy to egg protein, and allergic rhinitis due to animals. In CA-17 forms dated July 5, August 10, and September 9, 2022, Dr. Martens noted diagnoses, in the form of medical codes, and released appellant to work on a full-time basis for eight hours a day with no direct contact with poultry.

Dr. Joshua B. Macht, a Board-certified internist, produced a March 1, 2024 report and noted reviewing the medical records and evaluating appellant on February 29, 2024. He diagnosed reactive airway dysfunction syndrome and opined that appellant developed this condition while working for the employing establishment. Dr. Macht noted appellant's history of mild asthma as a child and that he reported no history of seasonal allergy or symptomatic allergic reactions until 2019. He noted appellant's work exposure beginning in 2006 through the onset of his symptoms in 2019 had included daily exposure to live chickens present at the workplace. Dr. Macht indicated that appellant initially had no issues in response to this exposure for many years; however, repetitive exposure to chicken dander resulted in sensitization of his lungs and an allergic reaction developed in response to these exposures. He noted that appellant's presenting signs and

symptoms were heavily correlated with his presence at work and that his most significant and unusual exposures related to live chickens. Dr. Macht advised that appellant stopped working for the employing establishment; however, due to the significant sensitization of his airways and the development of reactive airway dysfunction syndrome, he reacts with symptoms of asthma and allergy to other inhalation exposures including strong odors from perfumes, cleaning products, and cat litter. He opined that, based on a reasonable degree of medical certainty, appellant developed a reactive airway dysfunction syndrome after repeated work exposures that aggravated his underlying and quiescent asthma condition, which had been asymptomatic for decades.

On March 15, 2024 appellant, through counsel, requested reconsideration.

By decision dated March 19, 2024, OWCP denied modification of the March 21, 2023 decision.

### **LEGAL PRECEDENT**

A claimant seeking benefits under FECA<sup>3</sup> 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,<sup>4</sup> 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.<sup>5</sup> 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.<sup>6</sup>

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit: (1) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; (2) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; and (3) medical evidence establishing that the diagnosed condition is causally related to the identified employment factors.

Causal relationship is a medical question that requires rationalized medical opinion evidence to resolve the issue.<sup>7</sup> The opinion of the physician must be based upon a complete factual and medical background, must be one of reasonable medical certainty, and must be supported by

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<sup>3</sup> *Supra* note 2.

<sup>4</sup> *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).

<sup>5</sup> *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).

<sup>6</sup> *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).

<sup>7</sup> *I.J.*, Docket No. 19-1343 (issued February 26, 2020); *T.H.*, 59 ECAB 388 (2008); *Robert G. Morris*, 48 ECAB 238 (1996).

medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors.<sup>8</sup>

### ANALYSIS

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

In his June 16, 2021, and January 26, 2022 reports, Dr. Tsalamandris described appellant's repetitive work duties as an electronic technician and opined that this repetitive movement caused an exacerbation of his low back pain. He noted that a demanding mechanical environment causes the accumulation of tissue injury and repetitive microtrauma and progressively weakens spinal discs, thereby making them more susceptible to further injury. Dr. Tsalamandris explained that mechanical damage to spinal discs can include fiber damage, delamination, annulus tears, and associated proteoglycan loss. He noted that this results in accelerated degenerative changes, nerve damage, and radiculopathy. Dr. Tsalamandris opined that appellant's injury occurred over a period of time and was due to repeated stress and strain while performing repetitive duties at work.

Dr. Macht reported on March 1, 2024 that he diagnosed reactive airway dysfunction syndrome. He opined that appellant developed this condition while working for the employing establishment. Dr. Macht noted appellant's work exposure beginning in 2006 through the onset of his symptoms in 2019 including daily exposure to live chickens present at the workplace. He advised that repetitive exposure to chicken dander resulted in sensitization of appellant's lungs and airways, and noted that he developed an allergic reaction in response to these exposures. Dr. Macht opined that, based on a reasonable degree of medical certainty, appellant developed a reactive airway dysfunction syndrome after repeated work exposures, which aggravated his underlying and quiescent asthma condition.

The Board notes that Dr. Tsalamandris demonstrated a comprehensive understanding of the medical record and case history and provided a pathophysiological explanation as to how appellant's work duties as an electronic technician exacerbated his preexisting lower back condition. Similarly, Dr. Macht demonstrated a comprehensive understanding of the medical record and case history and provided a pathophysiological explanation as to how repetitive exposure to chicken dander resulted in sensitization of appellant's lungs and airways, and caused the development of reactive airway dysfunction syndrome.

The Board has long held that it is unnecessary that the evidence of record in a case be so conclusive as to suggest causal connection beyond all possible doubt. Rather, the evidence required is only that necessary to convince the adjudicator that the conclusion drawn is rational,

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<sup>8</sup> *D.C.*, Docket No. 19-1093 (issued June 25, 2020); *see L.B.*, Docket No. 18-0533 (issued August 27, 2018).

sound, and logical.<sup>9</sup> Accordingly, the medical opinions of Drs. Tsalamandris and Macht are sufficient to require further development of appellant's claim.<sup>10</sup>

It is well established that, proceedings under FECA are not adversarial in nature and, while appellant has the burden of proof to establish entitlement to compensation, OWCP shares responsibility in the development of the evidence.<sup>11</sup> OWCP has an obligation to see that justice is done.<sup>12</sup>

On remand, OWCP shall refer appellant, the medical record and a statement of accepted facts, to a specialist, or if necessary, to more than one specialist in the appropriate field(s) of medicine for a second opinion examination and rationalized medical opinion as to whether the accepted employment factors either caused or aggravated appellant's diagnosed conditions.<sup>13</sup> If there is a disagreement between the opinions of the second opinion physician(s) and those of Drs. Tsalamandris and Dr. Macht, the second opinion physician(s) must provide a fully-rationalized opinion explaining why the accepted employment factors were insufficient to have caused or aggravated appellant's diagnosed conditions. After this and other such further development as deemed necessary, OWCP shall issue a *de novo* decision.

### CONCLUSION

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

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<sup>9</sup> *W.M.*, Docket No. 17-1244 (issued November 7, 2017); *E.M.*, Docket No. 11-1106 (issued December 28, 2011); *Kenneth J. Deerman*, 34 ECAB 641, 645 (1983) and cases cited therein.

<sup>10</sup> *D.S.*, Docket No. 17-1359 (issued May 3, 2019); *X.V.*, Docket No. 18-1360 (issued April 12, 2019); *C.M.*, Docket No. 17-1977 (issued January 29, 2019); *William J. Cantrell*, 34 ECAB 1223 (1983).

<sup>11</sup> *See id.* *See also A.P.*, Docket No. 17-0813 (issued January 3, 2018); *Jimmy A. Hammons*, 51 ECAB 219, 223 (1999).

<sup>12</sup> *See B.C.*, Docket No. 15-1853 (issued January 19, 2016); *E.J.*, Docket No. 09-1481 (issued February 19, 2010); *John J. Carlone*, 41 ECAB 354 (1989).

<sup>13</sup> *See C.C.*, Docket No. 19-1631 (issued February 12, 2020).



**ORDER**

**IT IS HEREBY ORDERED THAT** the March 19, 2024 decision of the Office of Workers' Compensation Programs is set aside and the case is remanded for further proceedings consistent with this decision of the Board.

Issued: July 31, 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