

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

Y.A., Appellant)	
)	
and)	Docket No. 24-0723
)	Issued: July 30, 2024
DEPARTMENT OF VETERANS AFFAIRS,)	
SEATTLE VA MEDICAL CENTER,)	
Seattle, WA, Employer)	
)	

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

Case Submitted on the Record

DECISION AND ORDER

Before:
PATRICIA H. FITZGERALD, Deputy Chief Judge
VALERIE D. EVANS-HARRELL, Alternate Judge
JAMES D. MCGINLEY, Alternate Judge

JURISDICTION

On June 26, 2024 appellant filed a timely appeal from an April 19, 2024 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.

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 February 1, 2024 appellant, then a 44-year-old nurse, filed an occupational disease claim (Form CA-2) alleging that he contracted COVID-19 due to factors of his federal

¹ 5 U.S.C. § 8101 *et seq.*

employment, including close proximity to patients and staff members who had tested positive for COVID-19. Appellant noted that he first became aware of his condition and realized its relation to his federal employment on January 3, 2024, the date he developed flu-like symptoms. He stopped work on January 3, 2024, and returned to work on January 16, 2024.

In a development letter dated February 8, 2024, OWCP informed appellant of the deficiencies of his claim. It advised him of the type of factual and medical evidence needed to establish his claim, and provided a questionnaire for his completion. OWCP afforded appellant 60 days to respond. In a separate development letter of even date, it requested that the employing establishment provide information, including comments from a knowledgeable supervisor regarding the accuracy of appellant's allegations. OWCP afforded the employing establishment 30 days to respond.

In a response received February 9, 2024, appellant related that the nursing director had informed staff on January 3, 2024 that an employee, who appellant worked with, began to experience muscle cramps, headaches, fever, and a runny nose on January 2 and 3, 2024 and subsequently tested positive for COVID-19.

Appellant submitted a polymerase chain reaction (PCR) test result dated January 4, 2024, which indicated a positive result for COVID-19.

In a follow-up letter dated March 5, 2024, OWCP advised appellant that it had conducted an interim review, and the evidence remained insufficient to establish his claim. It noted that he had 60 days from the February 8, 2024 letter to submit the necessary 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.

In a March 7, 2024 e-mail, a manager at the employing establishment reviewed appellant's statement, and concurred that on December 28, 2023 he had worked in close proximity to a staff member who was confirmed to be positive for COVID-19. Appellant and the coworker had worn surgical masks, except when they took a lunch break together in the staff lounge.

By decision dated April 19, 2024, OWCP denied appellant's claim, finding that he had not met his burden of proof to establish that his diagnosed COVID-19 was causally related to the accepted employment exposure.

LEGAL PRECEDENT

An employee seeking benefits under FECA² 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, 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

² *Id.*

employment injury.³ 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.⁴

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, 2023.⁵

ANALYSIS

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

In support of his claim, appellant submitted a positive COVID-19 PCR test. However, diagnostic tests, standing alone, lack probative value as they do not provide a physician's opinion on whether there is a causal relationship between a diagnosed condition and the accepted employment incident/exposure.⁶ 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.

³ *J.M.*, Docket No. 17-0284 (issued February 7, 2018); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

⁴ *B.H.*, Docket No. 20-0777 (issued October 21, 2020); *K.M.*, Docket No. 15-1660 (issued September 16, 2016); *L.M.*, Docket No. 13-1402 (issued February 7, 2014); *Delores C. Ellyett*, 41 ECAB 992 (1990).

⁵ 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.

⁶ See *R.M.*, Docket No. 24-0155 (issued May 15, 2024); *P.A.*, Docket No. 18-0559 (issued January 29, 2020); *A.P.*, Docket No. 18-1690 (issued December 12, 2019); *R.M.*, Docket No. 18-0976 (issued January 3, 2019).

CONCLUSION

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

ORDER

IT IS HEREBY ORDERED THAT April 19, 2024 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: July 30, 2024
Washington, DC

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

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

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