

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

A.A., Appellant	)	
	)	
and	)	<b>Docket No. 23-1066</b>
	)	<b>Issued: May 14, 2024</b>
<b>DEPARTMENT OF VETERANS AFFAIRS,</b>	)	
<b>RAYMOND G. MURPHY MEDICAL CENTER,</b>	)	
<b>Albuquerque, NM, Employer</b>	)	
	)	

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

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:  
ALEC J. KOROMILAS, Chief Judge  
VALERIE D. EVANS-HARRELL, Alternate Judge  
JAMES D. MCGINLEY, Alternate Judge

**JURISDICTION**

On August 2, 2023 appellant filed a timely appeal from a July 13, 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 April 4, 2023 appellant, then a 58-year-old mail clerk, filed an occupational disease claim (Form CA-2) alleging that he contracted COVID-19 due to factors of his federal employment, including interacting with dozens of people, patients, and employees while visiting mail stops. He noted that he first became aware of his condition and realized its relationship to his

---

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

federal employment on March 22, 2023. Appellant stopped work on March 22, 2023 and returned to work on April 3, 2023.

In a development letter dated April 6, 2023, OWCP informed appellant of the deficiencies of his claim. It advised him of the type of factual and medical evidence needed, including a narrative medical report from a treating physician explaining how his work activities resulted in a diagnosis of COVID-19, and provided a questionnaire for his completion. In a separate letter of even date, OWCP requested that the employing establishment provide additional information, including comments from a knowledgeable supervisor regarding the accuracy of appellant's contentions. It afforded both parties 60 days to submit the necessary evidence.

OWCP received a COVID-19 antigen test result dated March 27, 2023, which indicated that appellant had tested positive for COVID-19.

In an April 19, 2023 response to OWCP's development questionnaire, appellant described his job duties, which included delivering mail all day, five days per week.

In a further statement dated April 28, 2023, appellant indicated that he felt ill on March 22, 2023 and was referred by employee health to undergo a COVID-19 test, which he did. On March 23, 2023 he received a telephone call from an employee health physician, who advised him that he tested positive for COVID-19. Appellant noted that he underwent a second COVID-19 test on March 27, 2023, which was administered by a nurse, and was also positive for COVID-19. He indicated that the mailroom where he worked had not been delivering mail for over two years, and within one week of restarting mail delivery to over 90 employing establishment departments and buildings, he tested positive for COVID-19. Appellant further noted that J.W. and S.H., two other mailroom employees, tested positive for COVID-19 at approximately the same time.

By decision dated July 13, 2023, OWCP denied the claim, finding that the medical evidence did not establish a causal relationship between the diagnosis of COVID-19 and 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 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 employment injury.<sup>3</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>4</sup>

---

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

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

<sup>4</sup> *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).

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 factors of federal employment is required in all claims for COVID-19 diagnosed after January 27, 2023.<sup>5</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 support of his claim, appellant submitted a March 27, 2023 COVID-19 antigen test result, which indicated that he had tested positive for COVID-19. The Board has held, however, that diagnostic test reports, standing alone, lack probative value as they do not provide an opinion on causal relationship between the diagnosed condition and the accepted employment exposure.<sup>6</sup> This evidence is, therefore, insufficient to establish the claim.

As the medical 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.

---

<sup>5</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>6</sup> *L.M.*, Docket No. 23-0946 (issued December 18, 2023); *T.H.*, Docket No. 18-1736 (issued March 13, 2019).

**ORDER**

**IT IS HEREBY ORDERED THAT** the July 13, 2023 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: May 14, 2024  
Washington, DC

Alec J. Koromilas, 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