

ISSUES

The issues are: (1) whether appellant has met his burden of proof to establish a diagnosed medical condition in connection with the accepted factors of employment; and (2) whether OWCP properly determined that appellant abandoned his request for an oral hearing before a representative of OWCP's Branch of Hearings and Review.

FACTUAL HISTORY

On January 26, 2024 appellant, then a 33-year-old microbiologist, filed an occupational disease claim (Form CA-2) alleging that he sustained fever likely due to virus infection causally related to factors of his federal employment. He noted that he first became aware of his condition and its relationship to his federal employment on January 24, 2024. In an accompanying statement, appellant noted that he awoke on January 24, 2023, feeling slightly weak with a dry cough. While working that day, he visited a building with "wild temperature swings." Appellant quickly felt hot and passed out, stating that he struck his head on a chair as he fell. He stated that he lost consciousness for approximately five seconds, his fever reached 102 degrees Fahrenheit, and he experienced uncontrollable shaking.

Diagnostic testing for influenza and COVID-19 obtained on January 24, 2024 indicated negative results. A chest x-ray obtained on the same date demonstrated no acute cardiopulmonary disease.

In a development letter dated February 7, 2024, OWCP informed appellant of the deficiencies of the claim. It advised him of the type of factual and medical evidence necessary to establish his claim, provided a questionnaire for his completion, and afforded him 60 days to submit the requested evidence.

Appellant replied by letter received February 8, 2024, in which he clarified that the date of injury was January 24, 2024, when he awoke with a dry cough. Appellant described that at approximately 11:30 a.m., within a span of about 30 seconds, his body went from feeling mildly uncomfortable to feeling very hot, to losing consciousness and hitting his head on a chair as he fell. He stated that this incident caused injury to his head, neck, and back.

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 7, 2024 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.

In a note dated March 18, 2024, Dr. Miguel Dozier, a Board-certified internist, opined that the event of January 24, 2024 was at least in part precipitated by a long flight, climbing to altitude quickly, and prolonged standing as a consequence of work requirements.

A January 24, 2024 discharge report, signed by Dr. Dozier on March 18, 2024, assessed appellant with syncope and collapse, as well as unspecified tachycardia.

Appellant submitted an unsigned patient care report dated January 24, 2024. The history of injury recounted that appellant was an out of state resident who was on business travel and had arrived two days prior. He woke at 6:30 a.m. on the morning of January 24, 2024 and felt tired and weak. At the employing establishment site, appellant felt hot and lost consciousness. Witnesses standing next to him related that appellant fainted and fell to the floor.

By decision dated April 17, 2024, OWCP denied appellant's claim, finding that the medical evidence of record was insufficient to establish a diagnosed medical condition in connection with the accepted factors of his federal employment. It concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

On April 30, 2024 appellant requested an oral hearing before a representative of OWCP's Branch of Hearings and Review regarding the April 17, 2024 decision.

In a June 27, 2024 notice, OWCP's hearing representative informed appellant that his oral hearing would be conducted by telephone, and was scheduled for August 7, 2024 at 3:30 p.m. Eastern Standard Time (EST). The hearing representative provided the toll-free number and passcode for access to the hearing, and mailed the notice to appellant's last known address of record, as well as to the employing establishment. Appellant did not appear for the telephonic hearing and no request for postponement was made.

By decision dated August 19, 2024, OWCP found that appellant had abandoned his request for an oral hearing as he had received written notification of the hearing 30 days in advance, but failed to appear. It further noted that there was no indication in the record that he had contacted the Branch of Hearings and Review either prior to, or subsequent to, the scheduled hearing to explain his failure to appear.

LEGAL PRECEDENT -- ISSUE 1

An employee seeking benefits under FECA 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 timely filed within the applicable time limitation period of FECA,³ 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.⁴ 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.⁵

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

³ *S.B.*, Docket No. 17-1779 (issued February 7, 2018); *J.P.*, 59 ECAB 178 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

⁴ *J.M.*, Docket No. 17-0284 (issued February 7, 2018); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

⁵ *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).

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.⁶

The medical evidence required to establish causal relationship is rationalized medical opinion evidence.⁷ A physician's opinion on whether there is causal relationship between the diagnosed condition and the implicated employment factor(s) must be based on a complete factual and medical background.⁸ Additionally, the physician's opinion must be expressed in terms of a reasonable degree of medical certainty, and must be supported by medical rationale, explaining the nature of the relationship between the diagnosed condition and appellant's specific employment factor(s).⁹

ANALYSIS -- ISSUE 1

The Board finds that appellant has not met his burden of proof to establish a diagnosed medical condition in connection with the accepted factors of his federal employment.

On January 24, 2024 Dr. Dozier assessed appellant with syncope and collapse, as well as unspecified tachycardia. Syncope, commonly referred to as fainting, and tachycardia, referring to a rapid heartbeat, are symptoms, not firm diagnoses of a medical condition. Further, Dr. Dozier did not diagnose any conditions caused by or related to appellant's episode of syncope and tachycardia. While appellant alleged that he hit his head as he fell on January 24, 2024, causing a potential injury to his head, neck, and back, the medical evidence does not contain any diagnosis in connection with a strike to the head due to the episode of fainting and does not mention that aspect of appellant's description of events. On March 18, 2024 Dr. Dozier opined that the event of January 24, 2024 was at least in part precipitated by a long flight, climbing to altitude quickly, and prolonged standing as a consequence of work requirements. He did not, however, offer a firm diagnosis of any medical condition. Similarly, appellant submitted the results of diagnostic testing obtained on January 24, 2024, which indicated negative results for influenza and COVID-19, and thus no firm medical diagnosis of any condition.

Medical reports lacking a firm diagnosis and a rationalized medical opinion regarding causal relationship are of no probative value.¹⁰ As such, the notes from Dr. Dozier, as well as the results of diagnostic testing, are insufficient to establish appellant's claim.

⁶ *R.G.*, Docket No. 19-0233 (issued July 16, 2019). *See also Roy L. Humphrey*, 57 ECAB 238, 241 (2005); *Ruby I. Fish*, 46 ECAB 276, 279 (1994); *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁷ 20 C.F.R. § 10.115(e), (f); *see Jacquelyn L. Oliver*, 48 ECAB 232, 235-36 (1996).

⁸ *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁹ *John J. Carlone*, 41 ECAB 354 (1989).

¹⁰ *See T.S.*, Docket No. 24-0605 (issued August 23, 2024); *A.C.*, Docket No. 20-1510 (issued April 23, 2021); *J.P.*, Docket No. 20-0381 (issued July 28, 2020); *R.L.*, Docket No. 20-0284 (issued June 30, 2020).

Appellant also submitted an unsigned patient care report dated January 24, 2024. The Board has long held that reports that are unsigned or bear an illegible signature lack proper identification and cannot be considered probative medical evidence because the author cannot be identified as a physician.¹¹ Therefore, this evidence is also insufficient to establish appellant's claim.

As the medical evidence of record is insufficient to establish a medical diagnosis in connection with the accepted employment factors, the Board finds that appellant has not met his burden of proof.¹²

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.

LEGAL PRECEDENT -- ISSUE 2

Under FECA and its implementing regulations, a claimant who has received a final adverse decision by OWCP is entitled to receive a hearing by writing to the address specified in the decision within 30 days of the date of the decision for which a hearing is sought.¹³ Unless otherwise directed in writing by the claimant, OWCP's hearing representative will mail a notice of the time and place of the hearing to the claimant and any representative at least 30 days before the scheduled date.¹⁴ OWCP has the burden of proving that it properly mailed notice of the scheduled hearing to a claimant and any representative of record.¹⁵

A claimant who fails to appear at a scheduled hearing may request in writing, within 10 days after the date set for the hearing, that another hearing be scheduled. Where good cause for failure to appear is shown, another hearing will be scheduled and conducted by teleconference.¹⁶ The failure of the claimant to request another hearing within 10 days, or the failure of the claimant to appear at the second scheduled hearing without good cause shown, shall constitute abandonment of the request for a hearing.¹⁷

¹¹ *R.J.*, Docket No. 24-0885 (issued September 30, 2024); *L.B.*, Docket No. 21-0353 (issued May 23, 2022); *Merton J. Sills*, 39 ECAB 572, 575 (1988).

¹² *See T.S.*, *supra* note 10.

¹³ 20 C.F.R. § 10.616(a).

¹⁴ *Id.* at § 10.617(b).

¹⁵ *C.M.*, Docket No. 24-0895 (issued September 30, 2024); *L.L.*, Docket No. 21-1194 (issued March 18, 2022); *V.C.*, Docket No. 20-0798 (issued November 16, 2020); *M.R.*, Docket No. 18-1643 (issued March 1, 2019); *Michelle R. Littlejohn*, 42 ECAB 463 (1991) (Thomas, Alternate Member, dissenting).

¹⁶ 20 C.F.R. § 10.622(f).

¹⁷ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Hearings and Reviews of the Written Record*, Chapter 2.1601.6g (September 2020); *see also L.L.* and *V.C.*, *supra* note 16; *K.H.*, Docket No. 20-1198 (issued February 8, 2021); *A.J.*, Docket No. 18-0830 (issued January 10, 2019).

ANALYSIS -- ISSUE 2

The Board finds that OWCP properly determined that appellant abandoned his request for an oral hearing before a representative of OWCP's Branch of Hearings and Review.

Following OWCP's April 17, 2024 decision denying appellant's claim for occupational disease, he filed a timely request for an oral hearing before a representative of OWCP's Branch of Hearings and Review. In a June 7, 2024 notice, OWCP's hearing representative informed appellant that his oral hearing would be conducted by telephone, and was scheduled for August 7, 2024 at 3:30 p.m. EST. The hearing representative mailed the notice to appellant's last known address of record and provided instructions on how to participate.¹⁸

Appellant failed to appear for the scheduled hearing. He did not request a postponement or provide an explanation to OWCP for failure to appear for the hearing within 10 days of the scheduled hearing. As appellant failed to call in to the scheduled hearing or provide notification to OWCP's Branch of Hearings and Review within 10 days of the scheduled hearing explaining failure to appear, the Board finds that OWCP properly determined that he abandoned his request for an oral hearing.¹⁹

CONCLUSION

The Board finds that appellant has not met his burden of proof to establish a diagnosed medical condition in connection with the accepted factors of employment. The Board further finds that OWCP properly determined that appellant abandoned his request for an oral hearing before a representative of OWCP's Branch of Hearings and Review.

¹⁸ The Board has held that, absent evidence to the contrary, a letter properly addressed and mailed in the ordinary course of business is presumed to have been received. This is called the mailbox rule. *See C.M., L.L., and V.C., supra* note 16.

¹⁹ *Id.*

ORDER

IT IS HEREBY ORDERED THAT the April 17 and August 19, 2024 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: November 18, 2024
Washington, DC

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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