

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

_____)	
M.D., Appellant)	
)	
and)	Docket No. 22-1340
)	Issued: October 10, 2024
DEPARTMENT OF THE AIR FORCE,)	
DAVIS-MONTHAN AIR FORCE BASE, AZ,)	
Employer)	
_____)	

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

Case Submitted on the Record

ORDER REMANDING CASE

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

On September 22, 2022 appellant filed a timely appeal from May 31 and September 15, 2022 merit decisions of the Office of Workers' Compensation Programs (OWCP). The Clerk of the Appellate Boards assigned the appeal Docket No. 22-1340.

On April 19, 2022 appellant, then a 47-year-old information technology specialist, filed a traumatic injury claim (Form CA-1) alleging that on November 2, 2021 he had an adverse reaction to a mandatory COVID-19 vaccine including pain, numbness, burning, weakness, and reduced range of motion in his arm and shoulder. He related that he was diagnosed with acute left shoulder adhesive capsulitis.

OWCP received evidence in support of appellant's claim, including a May 27, 2022 visit note from Dr. Andrew Mahoney, a Board-certified orthopedic surgeon. Dr. Mahoney diagnosed left shoulder adhesive capsulitis and related that appellant continued to report shoulder pain and decreased range of motion. He indicated that appellant had developed adhesive capsulitis after his COVID-19 vaccine.

By decision dated May 31, 2022, OWCP denied appellant's claim, finding that the medical evidence of record was insufficient to establish "that the claimed medical condition is causally related to the COVID-19 vaccine." It found that appellant's treating physician must "explain how

the work event(s) caused or affected [his] condition....” Therefore, the requirements had not been met to establish an injury and/or medical condition causally related to the accepted employment incident.

On June 30, 2022 appellant requested reconsideration of OWCP’s May 31, 2022 decision and submitted additional evidence.

By decision dated September 15, 2022, OWCP denied modification of its May 31, 2022 decision.

The Board, having duly considered this matter, finds that the case is not in posture for decision.

Executive Order No. 14043, effective September 9, 2021, mandated COVID-19 vaccination for most federal employees.¹ To provide coverage for claims for injury on or after September 9, 2021, resulting from receipt of the mandated COVID-19 vaccination for federal employees, OWCP issued FECA Bulletin No. 22-01, which outlines specific procedures for administering such claims.

FECA Bulletin No. 22-01 provides, *inter alia*, that when a claim is received for injury due to receipt of the COVID-19 vaccination, the claims examiner should: (1) determine if the vaccine was received prior to September 9, 2021; and (2) confirm that the employee is covered by the September 9, 2021 executive order. If the employee is covered by the executive order and vaccination was received on or after September 9, 2021, coverage may be afforded under FECA for employees impacted by the mandate who received required COVID-19 vaccinations on or after the date of the executive order for: (1) adverse reactions to the COVID-19 vaccination; and (2) injuries sustained as the direct result of an employee receiving their mandated vaccination.²

In denying appellant’s claim, OWCP failed to consider whether coverage should be administered in accordance with FECA Bulletin No. 22-01. Rather, it evaluated the medical evidence of record and found that it was insufficient to establish an injury and/or medical condition causally related to the accepted employment incident. As OWCP did not apply FECA Bulletin No. 22-01, it failed to follow its own procedures.³

This case shall therefore be remanded for application of FECA Bulletin No. 22-01 with regard to appellant’s claim.⁴ Following any further development as deemed necessary, OWCP shall issue a *de novo* decision. Accordingly,

¹ Exec. Order No. 14043, 86 Fed. Reg. 50989 (September 9, 2021).

² FECA Bulletin No. 22-01 (issued October 1, 2021).

³ *See generally Order Remanding Case, R.S.*, Docket No. 23-0283 (issued December 8, 2023).

⁴ *Id.*

IT IS HEREBY ORDERED THAT the May 31 and September 15, 2022 decisions of the Office of Workers' Compensation Programs are set aside and the case is remanded for further proceedings consistent with this order of the Board.

Issued: October 10, 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