

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

M.G., Appellant)	
)	
and)	Docket No. 24-0949
)	Issued: October 22, 2024
DEPARTMENT OF TRANSPORTATION,)	
FEDERAL AVIATION ADMINISTRATION,)	
Charleston, WV, 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
JANICE B. ASKIN, Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On September 20, 2024 appellant filed a timely appeal from an April 12, 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.²

ISSUE

The issue is whether appellant has met his burden of proof to establish a diagnosed medical condition in connection with the accepted January 23, 2024 employment incident.

¹ 5 U.S.C. § 8101 *et seq.*

² The Board notes that, following the April 12, 2024 decision, appellant submitted additional evidence to OWCP. However, the Board's *Rules of Procedure* provides: "The Board's review of a case is limited to the evidence in the case record that was before OWCP at the time of its final decision. Evidence not before OWCP will not be considered by the Board for the first time on appeal." 20 C.F.R. § 501.2(c)(1). Thus, the Board is precluded from reviewing this additional evidence for the first time on appeal. *Id.*

FACTUAL HISTORY

On January 31, 2024 appellant, then a 40-year-old transportation specialist, filed a traumatic injury claim (Form CA-1) alleging that on January 23, 2024 he was a passenger in a vehicle that slid down a snow covered hill and hit a fence while in the performance of duty. He indicated that he developed jaw pain and headaches two days later.

In a development letter dated February 6, 2024, OWCP informed appellant and the employing establishment of the deficiencies of his claim. It advised him regarding the type of additional factual and medical evidence needed and provided a questionnaire for his completion. OWCP afforded appellant 60 days to submit the necessary evidence. In a separate development letter dated February 6, 2024, it requested information from the employing establishment, including comments from a knowledgeable supervisor regarding appellant's claim. OWCP afforded the employing establishment 30 days to respond.

In a letter dated February 13, 2024, the employing establishment confirmed that appellant was not on travel or temporary duty, nor was he on his way to a facility to perform maintenance duties. It therefore contended that he was not in the performance of his duties when the incident occurred.

In a follow-up letter dated March 1, 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 its February 6, 2024 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.

No additional evidence was received.

By decision dated April 12, 2024, OWCP denied appellant's claim, finding that the medical evidence of record did not contain a diagnosis in connection with the accepted January 23, 2024 employment incident. It concluded, therefore, that the requirements had not been met to establish that he sustained an injury as defined by FECA.

LEGAL PRECEDENT

An employee seeking benefits under FECA³ 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,⁴ 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

³ *Supra* note 1.

⁴ *See Y.S.*, Docket No. 22-1142 (issued May 11, 2023); *F.H.*, Docket No. 18-0869 (issued January 29, 2020); *J.P.*, Docket No. 19-0129 (issued April 26, 2019); *Joe D. Cameron*, 41 ECAB 153 (1989).

employment injury.⁵ 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.⁶

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it first must be determined whether fact of injury has been established. First, the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time and place, and in the manner alleged. Second, the employee must submit sufficient evidence to establish that the employment incident caused a personal injury.⁷

The medical evidence required to establish a causal relationship is rationalized medical opinion evidence.⁸ The opinion of the physician must be based on a complete factual and medical background of the employee, must be one of reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and specific employment incident identified by the employee.⁹

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish a diagnosed medical condition in connection with the accepted January 23, 2024 employment incident.

In development letters dated February 6 and March 1, 2024, OWCP advised appellant regarding the type of medical evidence necessary to establish his claim. Appellant did not submit any medical evidence. As the evidence of record is insufficient to establish a diagnosed medical condition in connection with the accepted January 23, 2024 employment incident, the Board finds that he has not met his burden of proof.¹⁰

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.

⁵ *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).

⁶ *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).

⁷ *T.J.*, Docket No. 19-0461 (issued August 11, 2020); *K.L.*, Docket No. 18-1029 (issued January 9, 2019); *John J. Carlone*, 41 ECAB 354 (1989).

⁸ *S.S.*, Docket No. 19-0688 (issued January 24, 2020); *A.M.*, Docket No. 18-1748 (issued April 24, 2019); *Robert G. Morris*, 48 ECAB 238 (1996).

⁹ *T.L.*, Docket No. 18-0778 (issued January 22, 2020); *Y.S.*, Docket No. 18-0366 (issued January 22, 2020); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

¹⁰ *M.S.*, Docket No. 24-0857 (issued September 24, 2024).

CONCLUSION

The Board finds that appellant has not met his burden of proof to establish a diagnosed medical condition in connection with the accepted January 23, 2024 employment incident.

ORDER

IT IS HEREBY ORDERED THAT the April 12, 2024 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: October 22, 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