

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

COVID-19 the previous week. She noted that she first became aware of her condition and realized its relationship to her federal employment on August 16, 2024, and returned to work on August 26, 2024.

In support of her claim, appellant submitted an August 29, 2024 health records overview which indicated that her August 27, 2024 COVID-19 laboratory test result was “abnormal.”

In a development letter dated August 30, 2024, OWCP informed appellant of the deficiencies of her claim. It advised her of the type of factual and medical evidence needed and provided a questionnaire for her completion. OWCP afforded appellant 60 days to respond. In a separate development letter also dated August 30, 2024, it requested that the employing establishment provide additional information, including comments from a knowledgeable supervisor, regarding appellant’s claim. OWCP afforded the employing establishment 30 days to respond.

In a September 24, 2024 employing establishment response, B.O., a supervisor, noted that a coworker of appellant in the clinic was ill at the time, and appellant was exposed to that person for one week.

In a follow-up development letter dated September 26, 2024, OWCP advised appellant that it had conducted an interim review, and the evidence remained insufficient to establish her claim. It noted that she had 60 days from the August 30, 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.

In an October 22, 2024 report, Sarah Larson, a nurse practitioner, noted that appellant tested positive for COVID-19 on August 22, 2024. She related that appellant worked in a medical setting and was exposed to contagious airborne diseases. The nurse also noted that a physician who appellant was working with had tested positive for COVID-19. She explained that COVID-19 could incubate for up to five days before symptoms arose and that appellant did not realize that she had been exposed until she had symptoms.

OWCP received appellant’s October 20, 2024 response to OWCP’s development questionnaire. Appellant related that she was exposed to COVID-19 while assisting with patient care.

By decision dated November 25, 2024, OWCP denied appellant’s occupational disease claim. It found that she had not submitted medical evidence sufficient to establish that her diagnosed COVID-19 condition was causally related to 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

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

limitation of FECA,<sup>3</sup> 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>4</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>5</sup>

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.<sup>6</sup>

### ANALYSIS

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

In support of her claim, appellant submitted an August 29, 2024 health records overview, which indicated that her August 27, 2024 COVID-19 laboratory test result was “abnormal.” The Board has held, however, that diagnostic studies, standing alone, lack probative value as they do not address causal relationship.<sup>7</sup> This evidence is, therefore, insufficient to establish the claim.

OWCP also received an October 22, 2024 report from a nurse practitioner, who noted that appellant tested positive for COVID-19 on August 22, 2024. She related that appellant was exposed to contagious airborne disease when working with a physician who tested positive for COVID-19. However, certain healthcare providers such as physician assistants, nurse practitioners, and physical therapists are not considered physicians as defined under FECA.<sup>8</sup> As

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<sup>3</sup> *F.H.*, Docket No. 18-0869 (issued January 29, 2020); *J.P.*, Docket No. 19-0129 (issued December 13, 2019); *Joe D. Cameron*, 41 ECAB 153 (1989).

<sup>4</sup> *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).

<sup>5</sup> *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).

<sup>6</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>7</sup> See *M.S.*, Docket No. 22-0417 (issued August 8, 2022); *S.H.*, Docket No. 20-0113 (issued June 24, 2020); *M.L.*, Docket No. 18-0153 (issued January 22, 2020).

<sup>8</sup> 5 U.S.C. § 8101(2) provides that physician includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, and osteopathic practitioners within the scope of their practice as defined by State law, 20 C.F.R. § 10.5(t). See also Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3a(1) (May 2023); see also *M.F.*, Docket No. 19-1573 (issued March 16, 2020); *N.B.*, Docket No. 19-0221 (issued July 15, 2019); *David P. Sawchuk*, 57 ECAB 316, 320 n.11 (2006) (lay individuals such as physician assistants, nurses, and physical therapists are not competent to render a medical opinion under FECA).

noted, a rationalized medical report from a physician 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.<sup>9</sup> Consequently, this evidence is insufficient to establish the claim.

As the medical evidence of record is insufficient to establish causal relationship between appellant's diagnosed COVID-19 condition and the accepted employment exposure, the Board finds that she has not met her 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 her burden of proof to establish a diagnosis of COVID-19 causally related to her accepted employment exposure.

### **ORDER**

**IT IS HEREBY ORDERED THAT** the November 25, 2024 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: January 30, 2025  
Washington, DC

Alec J. Koromilas, Chief Judge  
Employees' Compensation Appeals Board

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

Janice B. Askin, Judge  
Employees' Compensation Appeals Board

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<sup>9</sup> See *C.S.*, Docket No. 23-0865 (issued May 14, 2024); *N.L.*, Docket No. 23-1107 (issued May 14, 2024).