

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

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**I.G., Appellant**

**and**

**U.S. POSTAL SERVICE, POST OFFICE,  
Yuba City, CA, Employer**

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**Docket No. 10-1366  
Issued: February 3, 2011**

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

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

ALEC J. KOROMILAS, Chief Judge  
MICHAEL E. GROOM, Alternate Judge  
JAMES A. HAYNES, Alternate Judge

**JURISDICTION**

On April 20, 2010 appellant filed a timely appeal from a March 31, 2010 merit decision of the Office of Workers' Compensation Programs denying her occupational disease claim. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of the case.

**ISSUE**

The issue is whether appellant met her burden of proof to establish that she sustained a right knee condition in the performance of duty causally related to factors of her federal employment.

**FACTUAL HISTORY**

On February 11, 2010 appellant, then a 51-year-old scheme qualified postal worker, filed an occupational disease claim (Form CA-2) alleging that she aggravated a right knee condition due to factors of her federal employment. She first became aware of her right knee condition on January 25, 2010 but did not indicate a date for when she first attributed it to her employment,

writing “approx. 1 year” on the form. Appellant reported that she had surgery to repair a torn cartilage in her right knee after a work-related injury approximately 7 to 10 years ago and the surgeon informed her that future surgeries would be required. She described a past employment incident as injuring her right knee while entering a postal vehicle and implicated other factors of her federal employment, including bending, twisting, pivoting her feet, side to side movements, standing up for six or more hours and lifting up to 70 pounds while sorting packages. Appellant’s supervisor indicated that no medical information was provided to the employing establishment and she continued to work and had no change in status.

On February 18, 2010 the Office requested additional factual and medical evidence, including a detailed description of the employment-related activities which contributed to appellant’s alleged right knee condition. It also requested a comprehensive medical report containing a diagnosis, description of her symptoms, the results of examinations and tests and medical rationale explaining how her diagnosed condition was causally related to specific factors of her employment. The Office allotted appellant 30 days to submit additional evidence and respond to its inquiries.

Appellant submitted a narrative statement noting treatment she received for a cortizone shot on January 27, 2010 by a Dr. Brar. She did not identify the physician’s first name. Appellant indicated that she enclosed a note from her physician. She stated that she had arthroscopy surgery on her right knee by a Dr. Tocci approximately 9 to 10 years prior due to an alleged employment-related injury. Appellant reiterated that he advised her that future right knee surgeries would be required. She did not provide Dr. Tocci’s first name. Appellant identified Feather River Surgery Center, Yuba City, CA as the facility where Dr. Tocci was employed and indicated that records were kept for only seven years. She was seen by a Dr. Vallier on February 23, 2010 and a nurse allegedly told her that comprehensive medical reports were not provided. Appellant did not identify Dr. Vallier’s first name.

By decision dated March 31, 2010, the Office denied appellant’s claim on the grounds that the factual and medical evidence was insufficient to establish that her right knee condition was causally related to factors of her employment.

### **LEGAL PRECEDENT**

An employee seeking benefits under the Federal Employees’ Compensation Act<sup>1</sup> has the burden of establishing 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 the Act, that the claim was timely filed within the applicable time limitation period of the Act and that an injury<sup>2</sup> was sustained in the performance of duty. These are the essential elements of each compensation

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<sup>1</sup> 5 U.S.C. §§ 8101-8193.

<sup>2</sup> The Office’s regulations define an occupational disease or illness as a condition produced by the work environment over a period longer than a single workday or shift. 20 C.F.R. § 10.5(q).

claim, regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.<sup>3</sup>

To establish that an injury was sustained in the performance of duty in a claim for an occupational disease claim, an employee must submit the following: (1) a factual statement identifying employment factors 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 employment factors identified by the employee.<sup>4</sup>

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical evidence. Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on whether there is a causal relationship between the employee's diagnosed condition and the implicated employment factors. 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 the specific employment factors identified by the employee.<sup>5</sup>

An award of compensation may not be based on surmise, conjecture or speculation. Neither the fact that appellant's claimed condition became apparent during a period of employment nor her belief that her condition was aggravated by her employment is sufficient to establish causal relationship.<sup>6</sup>

### ANALYSIS

The Board finds that appellant failed to meet her burden of proof to establish that she sustained an injury in the performance of duty causally related to factors of her federal employment.

The Office advised appellant to submit a detailed description of the employment activities believed to have caused or contributed to her alleged right knee condition, as well as a comprehensive medical report containing a diagnosis and an explanation as to how her diagnosed condition was caused by the implicated employment activities. Appellant failed to submit any medical evidence pertaining to her right knee condition. Although the Office

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<sup>3</sup> *Ellen L. Noble*, 55 ECAB 530 (2004).

<sup>4</sup> *O.W.*, 61 ECAB \_\_\_\_ (Docket No. 09-2110, issued April 22, 2010). See *Roy L. Humphrey*, 57 ECAB 238, 241 (2005); *Ruby I. Fish*, 46 ECAB 276, 279 (1994); *Victor J. Woodhams*, 41 ECAB 345 (1989).

<sup>5</sup> *Id.* See *I.J.*, 59 ECAB 408 (2008); *M.D.*, 59 ECAB 211 (2007).

<sup>6</sup> *Id.* See *D.I.*, 59 ECAB 158 (2007); *Ruth R. Price*, 16 ECAB 688, 691 (1965).

informed her of the deficiencies in the evidence, she did not submit the factual and medical evidence necessary to establish a *prima facie* claim for compensation.<sup>7</sup>

### **CONCLUSION**

The Board finds that appellant failed to meet her burden of proof to establish that she sustained a right knee injury in the performance of duty causally related to factors of her federal employment.

### **ORDER**

**IT IS HEREBY ORDERED THAT** the March 31, 2010 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: February 3, 2011  
Washington, DC

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

Michael E. Groom, Alternate Judge  
Employees' Compensation Appeals Board

James A. Haynes, Alternate Judge  
Employees' Compensation Appeals Board

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<sup>7</sup> *Id.* See *Donald W. Wenzel*, 56 ECAB 390 (2005). Cf. *D.R.*, 61 ECAB \_\_\_\_ (Docket No. 09-1723, issued May 20, 2010).