

to work factors in March 2003.¹ Appellant underwent left knee arthroplasty October 18, 2002 and returned to light duty in March 2003. She underwent right knee arthroplasty October 29, 2004. Appellant remained on modified duty until she retired on July 26, 2006.

Postmaster Cathy Ott contended that, in October 2002, appellant stated that her knee condition was not work related and so requested Family and Medical Leave Act (FMLA) instead of filing a claim. Appellant advised the employing establishment on March 23, 2003 that her knee osteoarthritis and arthroplasties were a “typical case of injury caused by repetitive motion during [her] postal duties as a letter carrier.”

In a November 7, 2005 letter, Charles Boggs, an employing establishment supervisor, asserted that several years before, appellant stated that she jogged after work.

In a November 22, 2005 letter, the Office advised appellant of the additional evidence needed to establish her claim, including a rationalized statement from her attending physician explaining how and why the identified work factor of jumping in and out of a delivery jeep would cause the claimed knee condition. The Office also questioned why appellant delayed in filing her claim. Appellant responded by December 7, 2005 letter, explaining that Dr. Craig Gyory, an attending Board-certified orthopedic surgeon, did not alert her of the severity of her condition until late 2001. It took another two years before she realized the condition was work related.

By decision dated January 26, 2006, the Office denied appellant’s claim on the grounds that causal relationship was not established. It found that appellant established as factual that she frequently jumped in and out of her delivery vehicle. However, appellant submitted insufficient rationalized medical evidence explaining how and why this activity would cause bilateral knee osteoarthritis.

Appellant requested an oral hearing, held August 9, 2006. During the hearing, she and her husband asserted that there was no family history of osteoarthritis. Appellant submitted additional evidence.

In a March 7, 2006 report, Dr. Gyory noted treating appellant beginning in October 2001 for severe osteoarthritis of both knees. He performed a left knee replacement in October 2002 and a right knee replacement in October 2004. Dr. Gyory opined that “making multiple exits from her mail truck, stepping down on her legs” may have aggravated or accelerated idiopathic osteoarthritis. However appellant’s “basic anatomy would predispose her for developing this despite her claims that no person in her family has had such a problem in the past.” Dr. Gyory opined that appellant’s “high-impact activity could aggravate or perhaps accelerate the deterioration of her knees,” but that he could not “state with a 51 percent degree of certainty that her job actually caused this condition to occur.” He noted work limitations.

¹ The claim now before the Board was assigned File No. 13-2140451. In a November 22, 2005 letter, the Office advised appellant that her claim under File No.13-2140350 would be deleted as that case was “an extension of created case 13-2140351.” It accepted a right shoulder condition under File No. 13-2125095. The record indicates that appellant filed a claim for a left shoulder condition under File No. 13-2140447. The shoulder condition claims are not before the Board on the present appeal.

In a March 15 and July 25, 2006 letters, appellant reiterated her contention that frequent jumping from her delivery vehicle caused her bilateral knee condition. In a July 26, 2006 letter, she alleged that, during her farewell party at work that morning, supervisor Marie Freese told the assembled workers that appellant had been on light duty due to unspecified work-related injuries. Appellant contended that this was an admission of liability regarding the knee condition.

By decision dated and finalized September 15, 2006, an Office hearing representative affirmed the January 26, 2006 decision, finding that the medical evidence was insufficient to establish causal relationship. The hearing representative found that Dr. Gyory's March 7, 2006 report was too speculative to meet appellant's burden of proof and did not require additional development by the Office. The hearing representative noted that appellant was a former jogger and also told her postmaster that her knee conditions were not work related.

In a December 10, 2006 letter, appellant requested reconsideration. She contended that Mr. Boggs and Ms. Ott lied as she did not make the statements described. Appellant asserted that Dr. Gyory clearly opined that her job duties accelerated her osteoarthritis. She submitted additional evidence.²

In a November 15, 2006 report, Dr. Joel W. Renbaum, an attending Board-certified orthopedic surgeon, related appellant's account of bilateral knee pain beginning in 1993. Appellant had delivered mail from 1983 to 1997 on a route that required frequent vehicle dismounts. Dr. Renbaum diagnosed status post bilateral knee replacements due to degenerative arthritis. He opined that "the work activity that existed from 1983 to 1997 did contribute to the rapid progression of her arthritis and ultimately resulted in her requiring total knee replacement." Dr. Renbaum noted that appellant "may genetically have developed osteoarthritis unrelated to the job" but that the "problem progressed more rapidly because of her work activity, especially between 1983 and 1997." Also, "use of the brake while driving from 1997 to 2002 accelerated the need for total knee replacement." He opined that "the work activity contributed at least one percent to [appellant's] need for knee replacements."

In a November 19, 2006 letter, Dr. Douglas E. Severance, an attending Board-certified family practitioner, noted examining appellant on November 8, 2006 for bilateral knee pain. He opined that appellant's "employment as a postal carrier contributed to her degenerative joint disease of both knees." While appellant "may [have been] predisposed for developing osteoarthritis ... her job as a postal carrier ha[d] certainly accelerated the damage."

By decision dated March 28, 2007, the Office denied modification on the grounds of insufficient evidence. It found that appellant submitted insufficient rationalized medical to establish the causal relationship asserted.

² Appellant also submitted reports from Dr. Chhatre Devenda regarding her shoulder conditions. This report is not relevant to the knee condition claim now before the Board.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act³ 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 filed within the applicable time limitation; that an injury was sustained while in the performance of duty as alleged; and that any disability and/or specific condition for which compensation is claimed are 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 on 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 the following: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the employment factors identified by the claimant were the proximate cause of the condition for which compensation is claimed or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant. The medical evidence required to establish causal relationship is generally rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on the issue of whether there is a causal relationship between the claimant'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 claimant, 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 claimant.⁶

ANALYSIS

Appellant claimed that she sustained bilateral knee osteoarthritis in the performance of duty, resulting in bilateral knee replacements. Dr. Gyory, an attending Board-certified orthopedic surgeon, diagnosed advanced osteoarthritis of both knees and performed bilateral knee arthroplasties. Appellant has thus met the first element of her burden of proof by establishing the presence of the claimed condition. The Office accepted that appellant's duties as a mail clerk required frequent vehicle dismounts. Appellant has thus met the second element of her burden of proof, as she established the asserted work factors as factual. To meet the third element, appellant must submit sufficient medical evidence to establish the claimed causal relationship between the diagnosed bilateral knee osteoarthritis and the accepted work factors.

³ 5 U.S.C. §§ 8101-8193.

⁴ *Joe D. Cameron*, 41 ECAB 153 (1989).

⁵ *See Irene St. John*, 50 ECAB 521 (1999); *Michael E. Smith*, 50 ECAB 313 (1999).

⁶ *Solomon Polen*, 51 ECAB 341 (2000).

Dr. Severance, an attending Board-certified family practitioner, opined that appellant's federal employment accelerated her bilateral knee osteoarthritis. However, he did not explain how the accepted work factors would cause or aggravate osteoarthritis of the knees. Thus, Dr. Severance's opinion is insufficiently rationalized to establish causal relationship.⁷

Dr. Gyory explained that the high impact activity of jumping from the delivery vehicle may have aggravated or accelerated appellant's idiopathic osteoarthritis, but he could not state this with certainty. The speculative nature of Dr. Gyory's opinion diminishes its probative value.⁸

Appellant also submitted a November 15, 2006 report from Dr. Renbaum, an attending Board-certified orthopedic surgeon. Who opined that frequent vehicle dismounts and activating the vehicle brake from 1983 to 2002 accelerated the progression of idiopathic osteoarthritis. Dr. Renbaum stated that work factors contributed to appellant's need for knee replacements. However, He did not provide sufficient rationale to support his opinion on causal relationship. Dr. Renbaum opinion is thus insufficient to meet appellant's burden of proof.⁹

The Board notes that appellant was advised by November 22, 2005 letter of the necessity of submitting medical evidence explaining how and why jumping in and out of a delivery vehicle would cause or contribute to the claimed knee osteoarthritis. Appellant did not submit such evidence. Therefore, she failed to meet her burden of proof in establishing causal relationship.

CONCLUSION

The Board finds that appellant has not established that she sustained a bilateral knee condition in the performance of duty.

⁷ *Deborah L. Beatty*, 54 ECAB 340 (2003) (medical reports not containing rationale on causal relationship are entitled to little probative value).

⁸ *D.E.*, 58 ECAB ___ (Docket No. 07-27, issued April 6, 2007).

⁹ *Deborah L. Beatty*, *supra* note 7.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated March 28, 2007 is affirmed.

Issued: October 9, 2008
Washington, DC

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

David S. Gerson, Judge
Employees' Compensation Appeals Board

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