

supervisor, Robert Benik, noted that appellant was injured in the performance of duty on July 5, 2013. He further advised that he was notified on July 6, 2013 of the injury and appellant did not lose any time from work. In a witness statement, J. Guadalupe Torres, a coworker reported that appellant was pulling brush to get it chipped and he hit his right knee with a branch.

Appellant submitted a doctor's first report of occupation injury or illness dated July 7, 2013 which noted his treatment for a right knee injury. He reported puncturing his right knee with a thorn bush while removing brush and shrubs. Dr. Byong J. Pak, a Board-certified emergency room physician, noted subjective complaints of right knee pain and tenderness over the right patella. The x-ray of the right knee was negative. He diagnosed contusion of the right knee and noted that appellant could return to light duty on July 7, 2013. Also submitted was a slip prepared by a nonspecific health care provider who noted that appellant could return to work. Appellant submitted a firefighter time report from June 26 to July 6, 2013.

By letter dated July 18, 2013, OWCP advised appellant of the type of factual and medical evidence needed to establish his claim and requested that he submit such evidence, particularly requesting that he submit a physician's reasoned opinion addressing the relationship of his claimed condition and specific employment factors.

Appellant submitted a doctor's first report of occupational injury or illness dated July 24, 2013 which noted appellant's treatment for chest pain.

In a decision dated August 30, 2013, OWCP denied his claim on the grounds that the evidence was not sufficient to establish that his knee condition was causally related to the established work event.

LEGAL PRECEDENT

An employee seeking benefits under FECA 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 FECA, that the claim was filed within the applicable time limitation of FECA, that an injury was sustained 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. 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.²

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. There are two components involved in establishing fact of injury. First, the employee must submit sufficient evidence to establish that he actually experienced the employment incident at the time, place and in the manner alleged. Second, the employee must submit medical evidence to establish that the employment incident caused a personal injury.³

² Gary J. Watling, 52 ECAB 357 (2001).

³ T.H., 59 ECAB 388 (2008).

Although causal relationship generally requires a rationalized medical opinion,⁴ OWCP may accept a case without a medical report when one or more of the following criteria, as set forth in the OWCP procedure manual,⁵ are satisfied:

“c. When No Medical Report is Required. If all of the following criteria are satisfied, a claim may be accepted without a medical report:

- (1) The condition reported is a minor one which can be identified on visual inspection by a lay person (*e.g.*, burn, laceration, insect sting or animal bite);
- (2) The injury was witnessed or reported promptly, and no dispute exists as to the fact of injury; and
- (3) No time was lost from work due to disability.”

ANALYSIS

As OWCP found in its August 30, 2012 decision, the evidence of record supports the fact that on July 5, 2013 appellant was pulling brush including a thorn bush during a chipping operation in the performance of duty at the time, place and in the manner alleged.

The case therefore rests on whether pulling brush and thorn bushes during a chipping operation on July 5, 2013 caused the contusion of the right knee.⁶ OWCP denied appellant’s claim stating that the evidence of record did not support a medical condition resulting from the alleged employment incident. As noted above, although causal relationship generally requires a rationalized medical opinion, OWCP may accept a case without a medical report when all of the following criteria, as set forth in OWCP’s procedure manual,⁷ are satisfied: “(1) the condition reported is a minor one which can be identified on visual inspection by a lay person (*e.g.*, burn, laceration, insect sting or animal bite); (2) the injury was witnessed or reported promptly, and no dispute exists as to the fact of injury; and (3) no time was lost from work due to disability.”

In the present case, the condition reported, a puncture and contusion to the right knee, meets the first criterion as a minor condition that could be identified on visual inspection and occur while removing bush and thorn bushes during a chipping operation. Appellant’s coworker and witness, Mr. Torres, reported that appellant was pulling brush during a chipping operation and he hit his right knee with a branch. There was no indication that the puncture and contusion

⁴ *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁵ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3c(1-3) (January 2013); *see also Timothy D. Douglas*, 49 ECAB 558 (1998).

⁶ The claim file contains medical information concerning an episode of chest pain on a different date from the claimed knee injury. While this information is present in the file, there is no complaint of chest pain in this claim and it has no bearing on the knee complaint.

⁷ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3(c) (January 2013); *see also Timothy D. Douglas*, *supra* note 5.

was considered a serious condition as appellant did not lose any time from work. The first criterion is therefore satisfied.

The second criterion is also satisfied. Appellant reported his injury to his supervisor on July 6, 2013, the day after the accident and filed the CA-1 on July 7, 2013. Additionally, his supervisor, signed the Form CA-1 and indicated that appellant was injured on July 5, 2013 during the performance of duty and received medical care the same day. Appellant's coworker, Mr. Torres, witnessed the incident and reported that appellant was pulling brush and hit his right knee with a branch. No dispute exists as to these facts.

Appellant's supervisor further noted on the Form CA-1 that appellant did not stop work due to the July 5, 2013 employment injury. As the record indicates that appellant did not stop work and has not claimed disability due to this incident, the third criterion is also met. A medical report addressing causal relationship is therefore not necessary in the circumstances of this case. Accordingly, the Board finds that the record establishes that an injury occurred in the performance of duty.⁸

The case must be remanded for OWCP to make appropriate findings with regard to appellant's entitlement to medical benefits. Following this and such other development as it considers necessary, OWCP shall issue a *de novo* decision on appellant's entitlement to benefits under FECA.

CONCLUSION

The Board finds that the record establishes that an injury occurred in the performance of duty on July 5, 2013.

⁸ *Pearlene Morton*, 52 ECAB 493 (2001).

ORDER

IT IS HEREBY ORDERED THAT the August 30, 2013 decision of the Office of Workers' Compensation Programs is reversed and the case is remanded for further development consistent with this opinion.⁹

Issued: February 26, 2014
Washington, DC

Richard J. Daschbach, Chief Judge
Employees' Compensation Appeals Board

Patricia Howard Fitzgerald, Judge
Employees' Compensation Appeals Board

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

⁹ The Board notes that appellant's appeal to the Board was accompanied by new evidence. The Board's jurisdiction on appeal is limited to a review of the evidence which was in the case record before OWCP at the time of its final decision; *see* 20 C.F.R. § 501.2(c). Therefore, the Board is precluded from reviewing this evidence.