



## **FACTUAL HISTORY**

On October 24, 2014 appellant, then a 27-year-old letter carrier, filed an occupational disease claim (Form CA-2) alleging that he sustained knee strain due to repetitive stair climbing. He first became aware of his condition on October 8, 2014 and first realized that it resulted from his employment on October 9, 2014. Appellant did not stop work.

Employing establishment accident reports from October 9 and 17, 2014 indicate that appellant reported having knee pain on October 8 and 16, 2014 while delivering mail. Appellant attributed the injury to being out of shape.

In an October 21, 2014 statement, appellant reported that his left knee pain began on October 9, 2014 while climbing stairs at customers' residences. He explained that he recently transitioned from a driving route to a walking route and that the change caused his injury. Appellant reported no history of knee problems.

OWCP received an October 15, 2014 workers' compensation form report. On his portion of the form, appellant stated that he suffered knee pain after walking up and down stairs. Dr. Jeffrey Olenick, Board-certified in family medicine, diagnosed leg pain. In an October 15, 2014 report, he reported seeing appellant for knee pain. Dr. Olenick noted appellant's assertion that his pain stemmed from excessive stair climbing. After a physical examination, he diagnosed hamstring tendinitis. In an October 15, 2014 work restrictions letter, Dr. Olenick advised that appellant should not climb stairs, but could return to normal duty after two weeks.

In an October 21, 2014 duty status report (Form CA-17), James Cooke, a family nurse practitioner, diagnosed appellant with knee strain and provided work restrictions. In an October 21, 2014 form report, he authorized modified work from October 21 to November 18, 2014.

In a November 10, 2014 letter, OWCP informed appellant that the evidence of record was insufficient to support his claim. It advised him to provide a medical report containing a diagnosis and a physician's opinion supported by a medical explanation as to how work factors resulted in the claimed condition.

Appellant provided physical therapy records noting an initial assessment of leg pain on October 30, 2014. Ann Scherner, a physical therapist, described appellant's mechanism of injury as cumulative stair climbing during employment. In a November 3, 2014 plan of care report, Dr. Benjamin Taylor, Board-certified in family medicine, reported that appellant's knee pain was due to prolonged stair climbing on his mail route.

In October 21, 2014 progress notes, Mr. Cooke related that appellant complained of left knee pain, attributing his injury to his work duties. He diagnosed knee and hamstring strain and asserted that he would have Dr. Taylor cosign the report.

In a November 14, 2014 workers' compensation form report, Dr. Lori Gross, Board-certified in occupational medicine, diagnosed appellant with knee and hamstring strain and authorized modified work from November 14 to December 1, 2014. In a November 14, 2014 progress report, she related that he attributed his left knee injury to repetitive stair climbing.

Based on chart notes, Dr. Gross diagnosed left knee and hamstring strain, but noted that appellant's symptoms had resolved. She indicated that he could work full duty except for limiting stair climbing to six hours a day.

December 1 and 15, 2014 reports reflect that Dr. Gross saw appellant for follow-up appointments and she again attributed his injury to repetitive stair climbing at work. She further reported that his symptoms had resolved. In the December 15, 2014 report, Dr. Gross advised that appellant could work full duty without restrictions and she released him from her care.

In a January 28, 2015 decision, OWCP denied appellant's claim, finding the medical evidence insufficient to demonstrate that his condition was causally related to the accepted work events.

### **LEGAL PRECEDENT**

An employee seeking compensation under FECA has the burden of establishing the essential elements of his or her claim by the weight of the reliable, probative, and substantial evidence,<sup>3</sup> including that he or she is an employee within the meaning of FECA<sup>4</sup> and that he or she filed his or her claim within the applicable time limitation.<sup>5</sup> The employee must also establish that he or she sustained an injury in the performance of duty as alleged and that his or her disability for work, if any, was causally related to the employment injury.<sup>6</sup>

To establish that an injury was sustained in the performance of duty in a claim for occupational disease, an employee must submit: (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>7</sup>

Causal relationship is a medical issue<sup>8</sup> and the medical evidence generally required to establish causal relationship is rationalized medical evidence. 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 employee.<sup>9</sup>

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<sup>3</sup> *J.P.*, 59 ECAB 178 (2007); *Joseph M. Whelan*, 20 ECAB 55, 57 (1968).

<sup>4</sup> *See M.H.*, 59 ECAB 461 (2008); *see* 5 U.S.C. § 8101(1).

<sup>5</sup> *R.C.*, 59 ECAB 427 (2008); *see id.* at § 8122.

<sup>6</sup> *G.T.*, 59 ECAB 447 (2008); *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

<sup>7</sup> *See Roy L. Humphrey*, 57 ECAB 238, 241 (2005); *Ruby I. Fish*, 46 ECAB 276, 279 (1994).

<sup>8</sup> *Mary J. Briggs*, 37 ECAB 578 (1986).

<sup>9</sup> *Victor J. Woodhams*, 41 ECAB 345 (1989).

## ANALYSIS

OWCP accepted that appellant's duties included repetitive stair climbing. The issue, therefore, is whether appellant established that he sustained a knee injury as a result of his employment duties. The Board finds that the medical evidence of record is insufficient to establish a causal relationship between his claimed left knee condition and his employment duties.

An October 30, 2014 report, signed by Dr. Taylor on November 3, 2014, diagnosed knee pain and stated that appellant's injury was caused by prolonged stair climbing. While the report indicates that he believed appellant's work contributed to his knee pain, it does not provide a definitive diagnosis<sup>10</sup> or a detailed explanation of the reasons supporting Dr. Taylor's opinion. Specifically, Dr. Taylor failed to explain the process whereby ascending and descending stairs would rationally cause the claimed condition. The Board has long held that a medical opinion not fortified by medical rationale is of little probative value.<sup>11</sup> Thus, the report is insufficient to establish appellant's claim.

In an October 15, 2014 report, Dr. Olenick reported that appellant complained of left knee pain due to excessive stair use. He diagnosed hamstring tendinitis. Dr. Olenick did not, however, provide his own opinion regarding whether appellant's work activities caused or contributed to the diagnosed condition. Instead, he merely related the history of injury as reported by appellant. To the extent that Dr. Olenick's statements reflect his own opinion on causal relationship, he failed to provide any medical rationale explaining how the mechanisms of excessive stair use caused the diagnosed hamstring tendinitis.<sup>12</sup> His October 15, 2014 form report did not provide any opinion as to the cause of appellant's condition. Medical evidence that does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship.<sup>13</sup>

In reports dated November 14 through December 15, 2014, Dr. Gross related that appellant attributed his injury to repetitive work activity. While she provided a history of injury, she did not specifically furnish an opinion regarding the cause of his condition. Absent an opinion as to whether appellant's condition was work related, Dr. Gross' reports are of limited probative value.<sup>14</sup>

The Board also notes that appellant submitted reports from a nurse practitioner and physical therapist that were not signed by a physician. These reports do not constitute probative

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<sup>10</sup> The Board notes that knee pain is a symptom, not a medical diagnosis, and subjective complaints of pain are not sufficient, in and of themselves, to support compensation benefits under FECA. 20 C.F.R. § 10.501(a)(3); *G.M.*, Docket No. 15-279 (issued April 2, 2015).

<sup>11</sup> *Brenda L. Dubuque*, 55 ECAB 212, 217 (2004); *Donald W. Long*, 41 ECAB 142 (1989).

<sup>12</sup> *See Brenda L. Dubuque, id.*

<sup>13</sup> *J.F.*, Docket No. 09-1061 (issued November 17, 2009).

<sup>14</sup> *Id.*

medical opinion evidence as nurse practitioners and physical therapists are not physicians as defined under FECA.<sup>15</sup>

On appeal, appellant contends that the transition from a driving mail route to a walking mail route caused his injury, as the walking route provided new physical stress. The Board has held that a belief that a disease was caused or aggravated by employment factors or incidents is insufficient to establish causal relationship.<sup>16</sup> Causal relationship must be substantiated by reasoned medical opinion evidence. As established above, appellant failed to provide such evidence.

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 did not meet his burden of proof to establish that his left knee condition is causally related to his federal employment.

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<sup>15</sup> *L.B.*, Docket No. 13-1253 (issued September 18, 2013) (physician assistants, physical therapists, physical therapy assistants, and nurse practitioners do not qualify as physicians under FECA and, therefore, their medical reports do not qualify as probative medical evidence supportive of a claim for federal workers' compensation, unless such medical reports are countersigned by a physician). *See* 5 U.S.C. § 8101(2) (defines the term "physician" as used in FECA); *see also Charley V.B. Harley*, 2 ECAB 208, 211 (1949) (where the Board held that medical opinion, in general, can only be given by a qualified physician).

<sup>16</sup> *Joe T. Williams*, 44 ECAB 518, 521 (1993).

**ORDER**

**IT IS HEREBY ORDERED THAT** the January 28, 2015 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: September 15, 2015  
Washington, DC

Christopher J. Godfrey, Chief Judge  
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

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