

FACTUAL HISTORY

On June 9, 2015 appellant, then a 49-year-old agriculture specialist, filed a traumatic injury claim (Form CA-1) alleging that on June 3, 2015 he twisted and popped his right ankle and knee while walking down stairs in the performance of duty. He did not indicate on the claim form that he had stopped work.

In a June 23, 2015 statement, an unidentified coworker indicated that appellant had surgery on his same knee several years ago and none of his coworkers had seen him use the stairs in the past several years.

In a June 5, 2015 emergency room report, Dr. Donald Bennett, an emergency room physician, noted appellant presented with chief complaint of knee and ankle pain. Appellant related a prior history of knee ligament repair with metal hardware in the right knee. He stated that he stepped awkwardly on Wednesday and felt immediate ankle pain, which worsened over the last two days and his knee became swollen. Dr. Bennett noted that the ankle injury on Wednesday occurred at work. Appellant also complained of swelling to the right second toe for the last three weeks after dropping a piece of wood on the foot, and a tight knot and swelling in his right arm after carrying heavy objects. Dr. Bennett ran a series of diagnostic tests, which were provided, and diagnosed effusion of right knee. The chart indicated that appellant had a previous anterior cruciate ligament (ACL) repair surgery and the right knee x-ray showed chondrocalcinosis, a large joint effusion, and degenerative changes of the knee. He was discharged to go home. A June 5, 2015 work note from Dr. Bennett indicated that appellant could return to work in three days or when his condition improved.

In a June 9, 2015 authorization for examination and/or treatment (Form CA-16), a physician with an illegible signature indicated that appellant was walking and twisted his knee and ankle. A diagnosis of right knee sprain was provided and he was discharged from treatment June 9, 2015. Appellant was advised to resume light work, effective June 16, 2015. By form of a checkmark "no," the physician indicated that the right knee sprain was not caused or aggravated by employment injuries.

In a June 9, 2015 report signed by Kevin Larkin, a physician assistant, and Dr. Heather Villani, a Board-certified emergency room physician, noted that appellant was seen and evaluated for knee sprain and ankle sprain and noted improvement of symptoms and swelling. A differential diagnosis of ACL strain, ACL tear, Baker's cyst, medial collateral ligament (MCL) tear, patella fracture, and septic joint was provided. A June 15, 2015 work note signed by Autman Fornasero, a physician assistant, was also provided in support of the claim.

In a June 22, 2015 report, Dr. Christopher C. Lai, a Board-certified orthopedic surgeon, noted the date of injury as June 3, 2015. He related that appellant was at work, descending some stairs when he twisted his ankle and felt his knee pop. Examination findings were noted and a diagnosis of old disruption of right ACL, right knee osteoarthritis, right derangement of posterior horn of medial meniscus, and right sprain and strain of calcaneofibular ligament provided. Dr. Lai indicated that appellant was working, performing modified duties. In a June 22, 2015 addendum report, he noted successful right knee joint cortisone injection. In a June 22, 2015 report of work status and restrictions, Dr. Lai diagnosed right knee degenerative joint disease,

possible medial meniscus tear, right lateral ankle sprain, cortisone injection, and bracing of right knee. He provided work restrictions and excused appellant from work until June 19, 2015.

In a July 15, 2015 letter, OWCP advised appellant of the deficiencies in his claim and requested additional factual and medical evidence, including a detailed narrative report from his physician which included a history of the injury and a medical explanation with objective evidence of how the reported work incident caused or aggravated the claimed conditions. Appellant was afforded 30 days to submit such evidence.

Additional reports from Dr. Lai were received. In a June 29, 2015 report, Dr. Lai noted date of injury of June 3, 2015 and that appellant was seen for a fitting of right hinged knee brace and right ankle lace-up. Diagnoses of old disruption of right ACL, right knee osteoarthritis, right derangement of posterior horn of medial meniscus, and right sprain and strain of calcaneofibular ligament were provided. In a July 9, 2015 report, Dr. Lai provided examination findings and results of diagnostic testing of appellant's right knee and right ankle. He noted that appellant was doing well after cortisone injection, and that his work restrictions would be decreased.

By decision dated August 25, 2015, OWCP denied appellant's claim because the medical evidence of record failed to establish that his right knee and right ankle conditions were causally related to the accepted work incident of June 3, 2015.

LEGAL PRECEDENT

An employee seeking benefits under FECA has the burden of proof to establish 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, 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.³ 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.⁴

To determine whether an employee sustained a traumatic injury in the performance of duty, OWCP begins with an analysis of whether fact of injury has been established. Generally, fact of injury consists of two components that must be considered conjunctively. First, the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident that is alleged to have occurred.⁵ An employee has not met his or her burden of proof of establishing the occurrence of an injury when there are such inconsistencies in the evidence as to cast serious doubt upon the validity of the claim.⁶ Second, the employee must

³ *Joe D. Cameron*, 41 ECAB 153 (1989).

⁴ *See Irene St. John*, 50 ECAB 521 (1999); *Michael E. Smith*, 50 ECAB 313 (1999).

⁵ *Gary J. Watling*, 52 ECAB 278 (2001).

⁶ *S.N.*, Docket No. 12-1222 (issued August 23, 2013); *Tia L. Love*, 40 ECAB 586, 590 (1989).

submit sufficient evidence, generally only in the form of medical evidence, to establish that the employment incident caused a personal injury.⁷

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 medial 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.⁸ Neither the fact that a disease or condition manifests itself during a period of employment nor the belief that the disease or condition was caused or aggravated by employment factors or incidents is sufficient to establish causal relationship.⁹

ANALYSIS

The Board finds that the June 3, 2015 work incident occurred as alleged, but denied the claim as the medical evidence of record did not establish causal relationship between the June 3, 2015 incident and the claimed right knee and right ankle conditions.

In a June 5, 2015 emergency room report, Dr. Bennett noted that appellant stepped awkwardly on Wednesday at work and felt immediate ankle pain which worsened. He also noted that appellant's knee was now swollen. Dr. Bennett related appellant's surgical history concerning the right knee, ran diagnostic tests, and presented examination findings. While he diagnosed right knee effusion and provided a June 5, 2015 work note, he failed to provide a medical opinion as to how the reported work incident caused or aggravated a diagnosed right knee condition. The Board has held that medical evidence which does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship.¹⁰ A medical opinion is especially needed in the case as the record reflects appellant had a preexisting right knee condition for which he underwent surgical repair.¹¹ Accordingly, Dr. Bennett's report and work note are of limited to probative value.

In his reports, Dr. Lai provided an accurate history of injury, presented examination findings and diagnosed conditions of old disruption of right ACL, right knee osteoarthritis, right derangement of posterior horn of medial meniscus, and right sprain and strain of calcaneofibular ligament. He, however, did not provide any opinion on whether the June 3, 2015 work incident

⁷ *Deborah L. Beatty*, 54 ECAB 340 (2003).

⁸ *Solomon Polen*, 51 ECAB 341 (2000).

⁹ *Dennis M. Mascarenas*, 49 ECAB 215 (1997).

¹⁰ *C.B.*, Docket No. 09-2027 (issued May 12, 2010); *J.F.*, Docket No. 09-1061 (issued November 17, 2009); *A.D.*, 58 ECAB 149 (2006).

¹¹ *See B.T.*, Docket No. 13-138 (issued March 20, 2013).

caused or contributed to appellant's medical conditions.¹² Dr. Lai failed to opine or provide any medical explanation regarding whether the right sprain and strain of calcaneofibular ligament resulted from the June 3, 2015 work incident and whether the current knee condition was caused or aggravated from the June 3, 2015 work incident. A medical opinion is especially needed in the case as the record reflects appellant had a preexisting right knee condition for which he underwent surgical repair.¹³ Likewise, his work notes also did not contain any opinion on his diagnosed conditions.

In a June 9, 2015 report signed by Dr. Villani indicated that appellant had improvement of symptoms and swelling for his knee sprain and ankle sprain. A differential diagnosis of ACL strain, ACL tear, Baker's cyst, MCL tear, patella fracture and Septic joint was provided, but no medical opinion on the cause of appellant's diagnosed conditions was provided.¹⁴

A June 9, 2015 CA-16 form was also received from an unknown medical provider, which indicated with a checkmark "no" that appellant's right knee strain was not caused or aggravated by employment activities. The Board has held that unsigned reports or ones that bear illegible signatures cannot be considered as probative medical evidence because they lack proper identification.¹⁵

The June 15, 2015 work note signed by Physician Assistant Fornasero, is also of no probative medical value to the issue of causal relationship as physician assistants are not considered physicians as defined under FECA.¹⁶

Causal relationship is a medical question that must be established by probative medical opinion from a physician.¹⁷ In this case, the Board finds that none of the medical evidence appellant submitted constitutes rationalized medical evidence, based upon a specific and accurate history of employment conditions, which are alleged to have caused or exacerbated his medical condition.¹⁸ Accordingly, the Board finds that, while he has established incident, OWCP properly denied his claim because he has not established a causal relationship between the work incident and his diagnosed conditions.

¹² See *supra* note 10.

¹³ See *supra* note 11.

¹⁴ See *supra* note 10.

¹⁵ *Thomas L. Agee*, 56 ECAB 465 (2005); *Richard F. Williams*, 55 ECAB 343 (2004).

¹⁶ Section 8102(2) of FECA provides that the term physician includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, and osteopathic practitioners within the scope of their practice as defined by State law. See 5 U.S.C. § 8101(2); *Roy L. Humphrey*, 57 ECAB 238 (2005). See *E.K.*, Docket No. 09-1827 (issued April 21, 2010) (when the Board noted reports from physician assistants and registered nurses were of no probative value as they are not physicians under FECA).

¹⁷ *W.W.*, Docket No. 09-1619 (issued June 2, 2010); *David Apgar*, 57 ECAB 137 (2005).

¹⁸ *Patricia J. Bolleter*, 40 ECAB 373 (1988).

On appeal appellant contends that his medical bills concerning his right knee and right ankle should be covered.¹⁹ The Board notes that the record does contain an authorization for examination and/or treatment (Form CA-16) which was completed by appellant's supervisor on June 9, 2015. The Board has held that where an employing establishment properly executes a CA-16 form, which authorizes medical treatment as a result of an employee's claim for an employment-related injury, it creates a contractual obligation, which does not involve the employee directly, to pay the cost of the examination or treatment regardless of the action taken on the claim.²⁰ Although OWCP denied appellant's claim for an injury, it did not address whether he is entitled to reimbursement of medical expenses pursuant to the Form CA-16. Upon return of the case record, it should further address this issue.²¹

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 an injury on June 3, 2015 causally related to the accepted employment incident.

¹⁹ Appellant submitted new evidence with his appeal. The Board, however, has no jurisdiction to review evidence on appeal which was not before OWCP at the time of its final decision. See 20 C.F.R. § 501.2(c)(1).

²⁰ See *D.M.*, Docket No. 13-535 (issued June 6, 2013). See also 20 C.F.R. §§ 10.300, 10.304.

²¹ *L.M.*, Docket No. 16-0188 (issued March 24, 2016).

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated August 25, 2015 is affirmed.

Issued: July 11, 2016
Washington, DC

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

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

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board