U. S. DEPARTMENT OF LABOR

# Employees' Compensation Appeals Board

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In the Matter of CHRISTINE J. YTURRIA and U.S. POSTAL SERVICE,
POST OFFICE, Corpus Christi, TX

*Docket No. 99-416; Submitted on the Record;*
*Issued May 24, 2000*

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DECISION and ORDER

Before MICHAEL J. WALSH, GEORGE E. RIVERS,
MICHAEL E. GROOM

The issues are: (1) whether appellant has established that she sustained a left knee injury on April 13, 1998 in the performance of duty; and (2) whether the Office of Workers' Compensation Programs properly denied appellant's request for a review of the written record as untimely under 5 U.S.C. § 8124.

On April 16, 1998 appellant, then a 42-year-old express mail carrier, filed a claim alleging that on April 13, 1998 she sustained an injury to her left knee in the performance of duty. She related that she was walking towards the time clock when she "felt my knee pop or strain [and] I felt a sharp pain but proceeded to clock out." Appellant did not stop work.

In a statement submitted in support of her claim, appellant related, "I was walking down the walkway leaving work proceeding to clock out at my end of tour when I suddenly felt a pop on my left knee. It was painful but I proceeded to clock out and hoped it was nothing." She submitted an office visit note dated April 16, 1998 from Dr. Wilbur R. Cleaves, Board-certified in family practice, who noted that appellant related a history of feeling a popping sensation in her knee walking down a hallway at work. In form reports of the same date, Dr. Cleaves diagnosed a left knee strain and checked "yes" that the condition was caused or aggravated by the described employment activity. He found that appellant could perform limited-duty employment.

In an office visit note dated April 21, 1998, Dr. Cleaves related that appellant's left knee strain was gradually improving and indicated that he would determine on the next visit whether she required a referral to an orthopedist or a magnetic resonance imaging (MRI) study. He found that she could perform her regular employment. In a form report dated May 7, 1998, Dr. Cleaves diagnosed ligamentous strain and opined that appellant had no limitations.

By decision dated May 26, 1998, the Office denied appellant's claim on the grounds that the evidence did not establish that she had a condition caused by an employment factor. The Office found that appellant had not identified a specific mechanism of injury but instead "relate[d] only that she was walking." In a letter postmarked June 26, 1998, appellant requested

a review of the written record, which the Office denied in a decision dated August 12, 1998 as untimely.

The Board finds that appellant met her burden of proof to establish that she sustained a left knee injury in the performance of duty on April 13, 1998.

The Office denied appellant's claim based on its finding that appellant did not identify a specific work factor or incident as causing her claimed April 13, 1998 injury. The Office appears to have found that an injury under the Federal Employees' Compensation Act cannot be caused by the incident alleged by appellant in this case, *i.e.*, that she sustained a left knee injury while walking at work. The Board has not, however, limited the definition of an injury to preclude the possibility of an injury under the circumstances presented in this case. The term "traumatic injury" is defined by the regulations as follows:

> "*Traumatic injury* means a wound or other condition of the body caused by external force, including stress or strain, which is identifiable as to time and place of occurrence and member or function of the body affected. The injury must be caused by a specific event or incident or series of events or incidents within a single workday or work shift."[1]

The action of walking at work satisfies the requirement that a traumatic injury be caused by an external force as walking imposes stress and strain upon the legs. In several cases the Board has found that actions which involved stress and strain of a degree similar to that involved in walking could be competent to cause employment injuries within the meaning of the Act. In *Geraldine Sutton*,[2] the Board determined the claimant's action of getting up from a chair at work could be competent to cause an injury.[3] The finding that walking can produce an injury is in accordance with a long-standing principle that there is no necessity to show special exposure or unusual conditions of employment in the factors producing disability.[4]

Accordingly, the case should be evaluated under the traditional "fact of injury" analysis. "Fact of injury" consists of two components which must be considered in conjunction with one another. The first component to be established is that the employee actually experienced the employment incident which is alleged to have occurred. The second component is whether the employment incident caused a personal injury and generally can be established on by medical evidence.[5]

In this case, appellant's statement that she experienced a popping sensation in the left knee while engaged in the action of walking at work on April 13, 1998 is not contradicted by any

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[1] 20 C.F.R. § 10.5(a)(15).

[2] 46 ECAB 1026 (1995).

[3] The Board made a similar finding in *Mary Joan Coppolino*, 43 ECAB 988 (1992).

[4] *See Anna Strehl (William Strehl)* 2 ECAB 74, 76-80 (1984) (where the Board held that there is no necessity for a showing of unusualness or extraordinariness in the factors producing disability since ordinary or normal working conditions can, in some situations, be competent producers of disease).

[5] *John J. Carlone*, 41 ECAB 345 (1989).

evidence of record and is consistent with the history provided in the medical evidence of record. Thus, appellant has established that she experienced the employment incident on April 13, 1998 at the time, place and in the manner alleged.

As noted above, appellant must also submit medical evidence to establish that the April 13, 1998 employment incident caused an injury. She submitted reports dated April 16, 1998 in which Dr. Cleaves provided an accurate history of injury, diagnosed left knee strain and checked a box indicating that her condition was caused or aggravated by the injury. Given the simple nature of the mechanism of injury and the noncomplex character of the condition diagnosed as resulting from the April 13, 1998 employment incident, this medical evidence is sufficient to establish that appellant sustained an employment injury on April 13, 1998 in the form of left knee strain.[6] Appellant would be entitled to compensation for disability or medical treatment related to this April 13, 1998 employment injury and, consequently, the case should be remanded to the Office for determination of her entitlement to compensation.[7]

The decision of the Office of Workers' Compensation Programs dated August 12, 1998 is set aside and the decision dated May 26, 1998 is hereby reversed on the issue of fact of injury and the case remanded for further action consistent with this decision of the Board.

Dated, Washington, D.C.
May 24, 2000

Michael J. Walsh
Chairman

George E. Rivers
Member

Michael E. Groom
Alternate Member

[6] *See generally* Federal (FECA) Procedure Manual, Part 2 -- Claims, *Developing and Evaluating Medical Evidence*, Chapter 2.810.3(c) (April 1993) (indicating that certain types of simple injuries would not require the provision of medical rationale by a physician to be established as employment related).

[7] In view of the Board's disposition of the merits, the issue of whether the Office properly denied appellant's request for a review of the written record as untimely under 5 U.S.C. § 8124 is moot.