

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ANNETTE L. BRYANT and U.S. POSTAL SERVICE,
POST OFFICE, Indianapolis, IN

*Docket No. 00-672; Submitted on the Record;
Issued February 1, 2001*

DECISION and ORDER

Before MICHAEL E. GROOM, BRADLEY T. KNOTT,
A. PETER KANJORSKI

The issue is whether appellant has established that her left knee condition was sustained in the performance of her federal duties, as alleged.

On April 23, 1999 appellant, then a 39-year-old letter carrier, filed a notice of occupational disease and claim for pay/compensation (Form CA-2), alleging that her left knee swelled after she returned from her mail route on April 5, 1999. Appellant sought medical attention and stopped work on April 12, 1999.

In an August 11, 1999 decision, the Office of Workers' Compensation Programs disallowed appellant's claim for compensation benefits finding that the medical evidence of record failed to establish that an injury was sustained as alleged.

The Board has reviewed the case record and finds that appellant has not met her burden of proof in establishing that her left knee condition was sustained in the performance of her federal duties.

An employee seeking benefits under the Federal Employees' Compensation Act¹ 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 timely filed within the applicable time limitation period of the Act, 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.² These are

¹ 5 U.S.C. §§ 8101-8193.

² *Joe D. Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.³

There is no dispute that appellant is a federal employee, that she timely filed her claim for compensation benefits, and that the workplace incidents or exposure occurred as alleged. However, the medical evidence is insufficient to establish that appellant sustained an injury in the performance of her federal duties.⁴ The April 12, 1999 prescription note from Dr. Casey R. Starsiak, a Board-certified orthopedic surgeon, stated that appellant was totally disabled until further evaluation due to left knee complaints, but failed to address the cause of appellant's left knee condition or provide a diagnosis. A Form CA-20 from Dr. Starsiak dated June 11, 1999 diagnosed chondromalacia patella of the left knee and a possible meniscal tear of the left knee. However, as Dr. Starsiak merely checked a box indicating that the history provided by appellant corresponded to the description of how the injury occurred, without providing any supporting rationale, Dr. Starsiak's opinion has little probative value and is insufficient to establish causal relationship.⁵ The same deficiency is noted in a Form CA-17 which Dr. Starsiak completed on June 17, 1999. The Office had previously advised appellant, by letter dated May 21, 1999, of the type of medical evidence needed to establish her claim. Furthermore, the Office sent a letter dated July 9, 1999 to Dr. Starsiak along with a statement of accepted facts with specific questions for the physician to address in the form of a narrative medical report. By letter dated July 9, 1999, the Office also enclosed a copy of its letter to Dr. Starsiak to appellant. The Office advised that it remained appellant's responsibility to ensure that the Office received the requested information within the 30-day time period or August 9, 1999. However, the Office did not receive any medical reports from Dr. Starsiak during the allotted time frame.⁶ Consequently, appellant has not submitted sufficient medical evidence to meet her burden of proof in establishing that she sustained an injury in the performance of her federal duties.

³ *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁴ Part of a claimant's burden of proof includes the submission of rationalized medical evidence based upon a complete factual and medical background showing causal relationship between the claimed injury and employment factors. See *Mary J. Briggs*, 37 ECAB 578 (1986); *Joseph T. Gulla*, 36 ECAB 516 (1985).

⁵ See *Ruth S. Johnson*, 46 ECAB 237 (1994).

⁶ The Board notes that submitted with appellant's appeal was a medical report of Dr. Starsiak dated August 9, 1999 which was not submitted to the Office and not considered by the Office in the August 11, 1999 decision. The Board has no jurisdiction to review this report for the first time on appeal; see 20 C.F.R. § 501.2(c); *James C. Campbell*, 5 ECAB 35, 36 (1952). Appellant may submit this report to the Office and request reconsideration.

The August 11, 1999 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, DC
February 1, 2001

Michael E. Groom
Alternate Member

Bradley T. Knott
Alternate Member

A. Peter Kanjorski
Alternate Member