

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

---

In the Matter of PAUL A. MARTINEZ and U.S. POSTAL SERVICE,  
POST OFFICE, Council Bluffs, IA

*Docket No. 03-1669; Submitted on the Record;  
Issued October 2, 2003*

---

DECISION and ORDER

Before ALEC J. KOROMILAS, DAVID S. GERSON,  
WILLIE T.C. THOMAS

The issue is whether appellant's claimed condition or disability is causally related to factors of his federal employment, as alleged.

On August 7, 2001 appellant, then a 53-year-old letter carrier, filed a notice of occupational disease and claim for compensation (Form CA-2), alleging that his work duties of walking, going up and down hills, and carrying full sacks of mail over the years has caused his knees to go bad. He indicated that his right knee was originally injured in Viet Nam and that he had reinjured his right knee on December 3, 1988 while at work when he got out of the postal jeep and hit his right knee on the frame of the jeep. He further related that both of his knees were bad and that his right knee needed to be replaced. On the reverse side of the CA-2 form, appellant's supervisor stated that he was notified of appellant's knee conditions on August 9, 2001 and advised that appellant did not stop work. Multiple medical records from the Department of Veterans Affairs (VA) were received.<sup>1</sup>

In a letter dated August 22, 2001, the employing establishment controverted appellant's claim, noting that the medical evidence submitted revealed surgeries on both knees prior to appellant's employment in 1988. The employing establishment further related that the medical evidence indicated a history of osteoarthritis and degenerative joint disease which preexisted appellant's employment and noted that appellant worked a mounted route, which consisted of delivery of the mail by vehicle, and, by appellant's own statement, he had not been on a walking mail route since 1996. It was additionally noted that appellant officiated at wrestling matches, which required being on his knees some of the time.

---

<sup>1</sup> These consisted of numerous treatment notes dating from February 6, 1990 to June 25, 2001 which described appellant's complaints of knee pain and x-ray reports dating from April 15, 1981 to May 1, 2000 which demonstrated bilateral degenerative joint disease of the knees.

In a letter dated September 18, 2001, the Office of Workers' Compensation Programs notified appellant of the deficiencies in his claim. It requested that he provide a comprehensive medical report from his treating physician describing his symptoms, past medical history, results of examinations and tests, diagnosis, the treatment provided, the effect of treatment, and the doctor's opinion, with medical reasons, regarding the cause of his condition. The Office specifically requested that appellant's physician further state whether appellant's exposure or incidents in his federal employment contributed to his condition and to provide an explanation of how such exposure contributed. The Office allotted appellant 30 days in which to submit the requested information.

In response appellant submitted a VA treatment note from Dr. Douglas P. McInnis dated August 7, 2001 in which the physician reported appellant's history of bilateral knee pain, made findings on examination and diagnosed bilateral medial gonarthrosis. He recommended total knee arthroplasty.

By decision dated November 6, 2001, the Office denied appellant's claim on the grounds that he failed to establish fact of injury. The Office specifically noted that the evidence submitted failed to establish the relationship between appellant's federal civilian employment and his medical condition.

On October 16, 2002 the Office received appellant's request for reconsideration which was accompanied by a June 4, 2002 report in which Dr. Jim Ballard<sup>2</sup> noted appellant's past history regarding his bilateral knee condition and his federal civilian employment. He diagnosed bilateral knee arthritis and advised that the only treatment option remaining was total knee replacements for both knees. Dr. Ballard stated that appellant's knee problems originated prior to his military service when he had meniscectomies performed bilaterally, that this problem had worsened during appellant's service in the military, and that "there was no question that his time in the post office and his type of employment, which included carrying mail, sometimes up steep hills and with fairly heavy loads, aggravated and worsened his problem." Dr. Ballard stated that it would be difficult to estimate the amount of aggravation appellant's work at the employing establishment contributed to his knee problem, but opined that it was somewhere in the range of 15 to 20 percent.

By letter dated November 26, 2002, the Office advised appellant that it needed additional information to determine whether his service-connected disability had increased due to a worsening of his medical condition. Appellant was requested to provide copies of all medical records from the VA which dealt with his service-connected knee conditions. He was further requested to provide the Office with a narrative report from Dr. Ballard addressing the objective evidence which demonstrated a material worsening of appellant's underlying condition resulting from exposure to work factors. The Office further specified the type of information the physician needed to provide, with medical rationale, in order for it to make a proper determination in appellant's case. Appellant was allotted 30 days from the date of the letter in which to submit such information. No response was received in the allotted time.

---

<sup>2</sup> The credentials of Drs. McInnis and Ballard are unknown.

By decision dated January 3, 2003, the Office denied appellant's claim as the evidence submitted failed to establish that he experienced a material worsening of his underlying condition due to exposure to federal work factors. The Office also noted that appellant had been advised of the deficiencies in the claim and afforded the opportunity to provide supportive evidence.

The Board finds that appellant failed to meet his burden of proof to establish that his knee condition was causally related to factors of employment.

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant. The medical opinion 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 claimant.<sup>3</sup>

Under the Federal Employees' Compensation Act,<sup>4</sup> when employment factors cause an aggravation of an underlying condition, the employee is entitled to compensation for the periods of disability related to the aggravation. When the aggravation is temporary and leaves no permanent residuals, compensation is not payable for periods after the aggravation has ceased, even if the employee is medically disqualified to continue employment because of the effect work factors may have on the underlying condition.<sup>5</sup>

To establish causal relationship between the claimed disability and the employment injury, appellant must submit rationalized medical opinion evidence based on a complete factual and medical background supporting such a causal relationship.<sup>6</sup> 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. Such an opinion of the physician 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 claimant.<sup>7</sup>

The Board finds that the medical evidence in the instant case is insufficient to establish that appellant's bilateral knee condition is causally related to factors of employment. The

---

<sup>3</sup> *Solomon Polen*, 51 ECAB 341 (2000).

<sup>4</sup> 5 U.S.C. §§ 8101-8193.

<sup>5</sup> *Raymond W. Behrens*, 50 ECAB 221 (1999).

<sup>6</sup> *Manuel Gill*, 52 ECAB 282 (2001).

<sup>7</sup> *Leslie C. Moore*, 52 ECAB 132 (2000).

medical evidence of record includes numerous treatment notes and x-ray examinations of the knees which indicate that appellant has a bilateral arthritic condition of the knees. These reports, however, do not contain an opinion regarding the cause of the condition. Likewise, while Dr. McInnis diagnosed a bilateral knee condition and recommended total knee arthroplasty, he too did not provide an opinion regarding the cause of the condition. While Dr. Ballard provided some support that past employment factors had contributed to or aggravated appellant's condition, when asked by the Office provided an additional explanation regarding his condition to include a supplementary report from Dr. Ballard, appellant failed to submit the requested medical evidence. Furthermore, Dr. Ballard's report is based on an incomplete employment history, and the Board has held that medical opinions based upon an incomplete history or which are speculative or equivocal in character have little probative value.<sup>8</sup> Appellant, therefore, has failed to meet his burden of proof to establish that he sustained an employment injury in the performance of duty causally related to factors of employment.

The January 3, 2003 decision of the Office of Workers' Compensation Programs is hereby affirmed.<sup>9</sup>

Dated, Washington, DC  
October 2, 2003

Alec J. Koromilas  
Chairman

David S. Gerson  
Alternate Member

Willie T.C. Thomas  
Alternate Member

---

<sup>8</sup> *Frank Luis Rembisz*, 52 ECAB 147 (2000).

<sup>9</sup> The Board notes that subsequent to the Office's January 3, 2003 decision, appellant submitted additional evidence. The Board, however, cannot review evidence for the first time on appeal not previously before the Office at the time it rendered its decision. Appellant may resubmit this evidence and legal contentions to the Office accompanied by a request for reconsideration pursuant to 5 U.S.C. § 8128(a). 20 C.F.R. § 10.606(b) (1999).