

On April 7, 2005 the Office requested additional information from appellant and the employing establishment. In response, appellant provided a narrative statement and medical records from January and February 2005. The employing establishment also submitted a statement.

Appellant stated that he routinely knelt on his right knee into the back of his postal vehicle to load and unload mail and parcels. He claimed that this avoided unnecessary back twisting of unloading from the driver's seat. Appellant alleged that the repeated contact with the rough surface of the cargo area during his delivery duties, five to seven hours a day, six days a week, caused a callus to form under his knee. He denied ever having problems with his knee before January 5, 2005, when he noticed pain and swelling in his knee while driving home from Texas. Appellant was seen by a physician on January 6, 2005 and given oral antibiotics. He claimed that he was admitted to the hospital on January 9, 2005 because the swelling and pain had increased and started spreading to his foot. Appellant underwent surgery on January 14, 2005 for infection of the bursal tissue in his right knee. He alleged that, following the surgery, the surgeon informed his wife that the infection was able to enter the knee through the callus.

Appellant submitted unsigned medical records from Drs. Jeffrey L. Garrison and David F. Pope, Board-certified orthopedic surgeons, and from James D. Altazan, a physician's assistant in Dr. Garrison's office. On January 6, 2005 Mr. Altazan¹ diagnosed appellant with right prepatellar bursitis. An x-ray revealed no fractures, dislocations or degenerative changes. On January 9, 2005 Dr. Pope admitted appellant to the hospital on an emergency basis for prepatellar bursitis and placed him on intravenous antibiotics. He noted swelling in the prepatella bursa and erythema extending from the right knee to the lower extremities. Dr. Garrison discharged appellant from the hospital on January 16, 2006 after performing open irrigation debridement with bursectomy on appellant's knee. On January 27, 2005 he reported the results of a pathology test of the bursal tissue removed in the operation, which showed "synovial lined fibroadipose tissue consistent with chronic nonspecific bursitis." In a February 10, 2005 progress report, Mr. Altazan indicated, "we do feel that this is work related secondary to kneeling down on rough surfaces in the back of his truck in the course of his employment."

The employing establishment controverted appellant's claim, contending that kneeling was not necessary to his duties.

The Office denied appellant's claim on May 11, 2005 on the grounds that he had not established that the claimed medical condition was related to the established work-related events. The Office found that the reports of nonphysicians were not sufficient to establish a causal relationship.

On June 22, 2005 appellant requested a review of the written record and provided another narrative statement, drawings of his vehicle and cargo placement and the February 10, 2005 patient record from Mr. Altazan.

¹ The Board presumes that Mr. Altazan made this diagnosis as his name appears on the record.

In a September 15, 2005 decision, an Office hearing representative affirmed the May 11, 2005 decision denying the claim. The hearing representative accepted that appellant had experienced the work condition of kneeling in the truck and was diagnosed with prepatellar bursitis but found the medical evidence did not support a causal relationship or explain how kneeling resulted in an infection that developed while appellant was not at work. Mr. Altazan's February 10, 2005 report was not entitled to any weight since he was not a physician, as defined under the Act.

On January 23, 2006 the Office received additional medical evidence from appellant, followed on February 13, 2006, with a request for reconsideration of the claim. The evidence consisted of an unsigned report by Dr. Garrison relating to appellant's February 14, 2005 operation. Dr. Garrison stated that, because of a history of repetitive kneeling on the rough surface in the back of his mail truck, appellant had developed a callus and that "he subsequently developed prepatellar bursitis related to this repetitive activity."

By decision dated April 28, 2006, the Office denied the claim on the grounds that there was insufficient medical evidence. Dr. Garrison's report did not explain "whether and how kneeling on this surface had caused these conditions to develop."

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act² 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 filed within the applicable time limitation; that an injury was sustained while in the performance of duty as alleged; and that any disability or specific condition for which compensation is claimed is causally related to the employment injury.³

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;⁴ (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition;⁵ and (3) medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant.⁶

² 5 U.S.C. §§ 8101-8193.

³ *Caroline Thomas*, 51 ECAB 451 (2000); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁴ *Solomon Polen*, 51 ECAB 341 (2000).

⁵ *Marlon Vera*, 54 ECAB 834 (2003); *Roger Williams*, 52 ECAB 468 (2001).

⁶ *Ernest St. Pierre*, 51 ECAB 623 (2000).

ANALYSIS

There is no dispute that appellant was exposed to the employment factor of repeatedly kneeling on his right knee in the cargo area of his postal vehicle, nor is there a dispute that appellant was diagnosed with prepatellar bursitis for which he underwent an open irrigation debridement with bursectomy. The issue to be resolved is whether the knee condition arose from the employment activities.

The Board finds that the medical evidence in the record is inadequate to establish that appellant sustained an injury in the performance of duty as alleged. None of the medical reports submitted to the record were signed by a physician. The Board has held that unsigned reports are of no probative value as the author cannot be readily identified as a physician.⁷

The only report of record which contains an opinion regarding causal relationship is the February 10, 2005 progress note from Mr. Altazon. He stated that appellant's condition was work related secondary to his kneeling on rough surfaces in his mail truck. This opinion is inadequate to establish that appellant sustained an injury. The Board has held that a physician's assistant is not a physician as defined under the Act and, therefore, not competent to provide a medical opinion.⁸ To establish a causal relationship between the claimant's diagnosed condition and the implicated employment factors, claimant must submit a physician's opinion on the issue of causal relationship which is based on a complete factual and medical background of the claimant,⁹ and must be one of reasonable medical certainty,¹⁰ explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.¹¹

Appellant submitted medical records by Dr. Garrison and Dr. Pope, both Board-certified orthopedic surgeons, who diagnosed and treated his right knee infection. As noted, however, these reports were not signed by the physicians and are insufficient to establish his claim. For the foregoing reasons, appellant has failed to meet his burden of proof.

CONCLUSION

The Board finds that appellant has not established that he sustained an injury to his knee in the performance of duty causally related to factors of his federal employment.

⁷ See *Merton J. Sills*, 39 ECAB 572 (1988).

⁸ 5 U.S.C. § 8101(2); see *Ricky S. Storms*, 52 ECAB 349 (2001).

⁹ *Tomas Martinez*, 54 ECAB 623 (2003); *Gary J. Watling*, 52 ECAB 278 (2001).

¹⁰ *John W. Montoya*, 54 ECAB 306 (2003).

¹¹ *Judy C. Rogers*, 54 ECAB 693 (2003).

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated April, 28, 2006 is affirmed.

Issued: December 1, 2006
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

David S. Gerson, Judge
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board