

FACTUAL HISTORY

On April 2, 2004 appellant, then a 44-year-old city carrier, filed a claim for a traumatic injury occurring on March 26, 2004 in the performance of duty. He noted that his knee swelled when he cased mail and that fluid built up with prolonged standing. Appellant did not stop work. In a statement dated April 6, 2004, he noted:

“On March 26, 2004 I became aware that fluid had built up in my left knee due to the swelling and called to make an appointment with my doctor. My appointment was scheduled for March 31, [2004]. When I saw the doctor, he said that he had to look inside my knee to find out what is going on. When casing my assignment or other assignments, I feel my knee swelling. When standing over a period of time, fluid builds up in my knee.”

The postmaster, in a letter dated April 8, 2004, noted that appellant had informed his supervisor on April 2, 2004 that he needed surgery on his left knee. The postmaster advised that appellant learned that a previously filed occupational disease claim had been denied prior to requesting a traumatic injury claim form and continuation of pay.

By letter dated April 26, 2004, the Office requested additional factual and medical information from appellant. In response, he submitted an unsigned report dated April 8, 2004 from Dr. Michael A. Hill, a Board-certified internist, who evaluated him for complaints of swelling in his left knee. Dr. Hill discussed appellant’s history of surgery for a previous injury to his meniscus two to three years earlier. He indicated that, after working overtime for several months, appellant experienced swelling and discomfort in his left knee without a history of “direct trauma or falls.” Dr. Hill diagnosed knee pain possibly due to degenerative joint disease and released him to his usual activity.

In a form report dated May 17, 2004, Dr. Lennard George, a surgeon, listed the history of injury as recurrent swelling of the left knee two years after an arthroscopy. He diagnosed effusion of the left knee and a possible recurrent meniscal tear. Dr. George checked “yes” that the condition was caused or aggravated by employment and placed appellant on light duty from March 30 to May 23, 2004 pending surgery. In a duty status report of the same date, the physician found that appellant could work with restrictions, March 30, 2004.

By decision dated June 2, 2004, the Office denied appellant’s claim, finding that he did not establish fact of injury. The Office determined that he had not established that the March 26, 2004 employment incident occurred as alleged due to his failure to respond to its request for additional factual information.

In a letter dated May 12, 2005, appellant requested reconsideration of his claim. He described the employment activities that aggravated his knee condition as “constant standing and walking while casing mail. This sometimes causes my knee to give way, buckle and swell. There is not one particular incident other than the buckling and overall weakness in my left knee that gets worse over time and has aggravated, as indicated by medical opinion, my left knee condition.”

In an unsigned report dated October 6, 2004, Dr. Maurice Cates, a Board-certified orthopedic surgeon, noted that appellant worked limited duty because of “giving away of his left knee.” Dr. Cates attributed appellant’s knee problems to chondromalacia patella and recommended physical therapy.

In a report dated January 28, 2005, Dr. George noted that previous arthroscopic surgery showed Grade 1 chondromalacia and a partial tear of appellant’s anterior cruciate ligament (ACL). Subsequent to the surgery, appellant resumed work but experienced increased swelling of his knee which “worsened with weight-bearing activities at work (standing, walking and pivoting).” Dr. George indicated that surgery on May 2004 showed the ACL tear and “more advanced chondromalacia.” He stated:

“[Appellant] was informed that prolonged standing, walking and pivoting that are involved in carrying out his responsibilities at work may be aggravating his knee. He was informed that since he has not gotten better from these procedures that he may need to consider some reassignment of his duties at work to more sedentary-type activities.”

By decision dated May 9, 2006, the Office denied modification of its June 2, 2004 decision. The Office found that appellant failed to submit medical evidence establishing that he sustained an injury due to his employment.

LEGAL PRECEDENT

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 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.² 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.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 the

¹ 5 U.S.C. §§ 8101-8193.

² *Caroline Thomas*, 51 ECAB 451 (2000); *Elaine Pendleton*, 40 ECAB 1143 (1989).

³ *See Irene St. John*, 50 ECAB 521 (1999); *Michael E. Smith*, 50 ECAB 313 (1999).

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

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

employment factors identified by the claimant were the proximate cause of the condition for which compensation is claimed or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant.⁶

The medical evidence required to establish causal relationship generally is 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.⁷ The opinion of the physician must be based on a complete factual and medical background of the claimant,⁸ must be one of reasonable medical certainty⁹ explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.¹⁰

ANALYSIS

Appellant submitted a claim for a traumatic injury occurring on March 26, 2004 in the performance of duty. He did not, however, allege that a specific incident occurred on that date, but instead related that he experienced pain and swelling in his knee when casing mail or performing other assignments. He experienced an accumulation of fluid in his knee with extensive standing. Appellant's claim, consequently, may more properly be characterized as a claim for an occupational disease as it appears to have occurred over a period of time.¹¹ It is well established that a claim for compensation need not be filed on any particular form. A claim may be made by filing any paper containing words which reasonably may be construed or accepted as a claim.¹² In this case, appellant has submitted a statement detailing the factors of employment to which he attributed his condition and the employing establishment has not challenged that he was exposed to the implicated employment factors. The medical evidence, however, is not sufficient to show that appellant sustained an occupational disease resulting from the identified factors of his federal employment.

In an unsigned report dated April 8, 2004, Dr. Hill indicated that appellant experienced swelling and pain in his left knee after working overtime. Dr. Hill noted his history of previous surgery on his meniscus and diagnosed knee pain possibly due to degenerative joint disease. He released appellant to his usual activity. In an unsigned report dated October 6, 2004, Dr. Cates

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

⁷ *Conrad Hightower*, 54 ECAB 796 (2003); *Leslie C. Moore*, 52 ECAB 132 (2000).

⁸ *Tomas Martinez*, 54 ECAB 623 (2003); *Gary J. Watling*, 52 ECAB 278 (2001).

⁹ *John W. Montoya*, 54 ECAB 306 (2003).

¹⁰ *Judy C. Rogers*, 54 ECAB 693 (2003).

¹¹ An occupational disease or illness is a condition produced by the work environment over a period longer than a single workday or shift. 20 C.F.R. § 10.5(q); *Ellen L. Noble*, 55 ECAB ____ (Docket No. 03-1157, issued May 7, 2004); *Beverly A. Spencer*, 55 ECAB ____ (Docket No. 03-2033, issued May 3, 2004).

¹² *Barbara A. Weber*, 47 ECAB 163 (1995).

diagnosed chondromalacia patella and recommended physical therapy. The Board has held, however, that medical reports lacking proper identification cannot be considered as probative evidence in support of a claim.¹³

In a form report dated May 17, 2004, Dr. George noted appellant's history of injury as recurrent swelling of the left knee two years after an arthroscopy. He diagnosed effusion of the left knee and a possible recurrent meniscal tear and checked "yes" that the condition was caused or aggravated by employment. Dr. George placed appellant on light duty from March 30 to May 23, 2004 pending surgery. The Board has held, however, that when a physician's opinion on causal relationship consists only of checking "yes" to a form question, without explanation or rationale, that opinion is of diminished probative value and is insufficient to establish a claim.¹⁴

In a report dated January 28, 2005, Dr. George noted that, following arthroscopic surgery, appellant returned to work but experienced swelling in his knee, which grew worse with standing, walking and pivoting at work. He found that surgery performed in May 2004 revealed a previously diagnosed ACL tear and "more advanced chondromalacia." Dr. George stated:

"[Appellant] was informed that prolonged standing, walking and pivoting that are involved in carrying out his responsibilities at work may be aggravating his knee. He was informed that since he has not gotten better from these procedures that he may need to consider some reassignment of his duties at work to more sedentary-type activities."

Dr. George's opinion that appellant's work duties may be aggravating his knee condition is speculative in nature. The Board has held that medical opinions that are speculative or equivocal in character are of diminished probative value.¹⁵

An award of compensation may not be based on surmise, conjecture, speculation or upon appellant's own belief that there is causal relationship between his claimed condition and his employment.¹⁶ To establish causal relationship, appellant must submit a physician's report in which the physician reviews the employment factors identified by appellant as causing his condition and, taking these factors into consideration as well as findings upon examination, state whether the employment injury caused or aggravated the diagnosed conditions and present medical rationale in support of his or her opinion.¹⁷ Appellant failed to submit such evidence in this case and, therefore, has failed to discharge his burden of proof to establish that he sustained an injury to his left knee due to factors of his federal employment.

¹³ *Richard F. Williams*, 55 ECAB ____ (Docket No. 03-1176, issued February 23, 2004); *Merton J. Sills*, 39 ECAB 572 (1988) (unsigned notes of medical treatment are of no probative value).

¹⁴ *Deborah L. Beatty*, 54 ECAB 340 (2003).

¹⁵ *Kathy A. Kelley*, 55 ECAB ____ (Docket No. 03-1660, issued January 5, 2004).

¹⁶ *Robert A. Boyle*, 54 ECAB 381 (2003); *Patricia J. Glenn*, 53 ECAB 159 (2001).

¹⁷ *Calvin E. King*, 51 ECAB 394 (2000).

CONCLUSION

The Board finds that appellant has not established that he sustained an injury to his left knee in the performance of duty.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated May 9, 2006 is affirmed.

Issued: September 14, 2006
Washington, DC

David S. Gerson, Judge
Employees' Compensation Appeals Board

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