

October 28, 2004 diagnosing degenerative joint disease and indicating that appellant provided a history of injury while climbing stairs in the performance of duty.

In a letter dated January 18, 2005, the Office requested additional factual and medical evidence in support of appellant's claim. The Office allowed her 30 days for a response. Appellant submitted an additional duty status report dated January 13, 2005 and received by the Office on January 28, 2005 diagnosing degenerative disc disease and indicating that she provided a consistent history of injury.

By decision dated March 4, 2005, the Office accepted that the October 18, 2004 incident occurred as alleged. It denied appellant's claim on the grounds that she had not submitted sufficient medical evidence to support a diagnosis which could be connected to the event. The Office also stated that appellant had not submitted any further evidence following the January 18, 2005 letter.

Appellant requested reconsideration on March 21, 2006. She submitted additional duty status reports dated March 29, April 5 and July 7, 2005, diagnosing chondromalacia and mild degenerative joint disease and stating that she had chronic arthritis which may have been exacerbated by her injury. On July 7, 2005 Dr. Matthew Paul, a resident physician, stated that appellant's work-related diagnosis was bilateral arthritis of the knees.

Dr. Kelly Boulden, a Board-certified family practitioner, completed a report on October 19, 2004 and noted that appellant's left knee pain was possibly work related. She noted that appellant had an onset of left knee pain on October 18, 2004 while walking up stairs. Dr. Boulden found swelling in the left knee and noted that appellant had a history of knee problems.

Dr. Hernandez examined appellant on October 19, 2004 and stated that she sought treatment for ongoing left knee pain. Appellant underwent left knee arthroscopy in 1992 and right knee arthroscopy in 2003. Dr. Hernandez stated, "[Appellant] presents today because of some worsened pain she began developing in that left knee during work." He x-rayed her left knee and found medial compartment narrowing with bone on bone and osteophyte in the medial compartment. Dr. Hernandez also found osteophyte formation superiorly and inferiorly at the level of the patella in the patellofemoral joint. On January 13, 2005 Dr. Hernandez recommended placement of an unispacer rather than total knee replacement.

In a report dated April 5, 2005, Dr. Mark S. Muller, a resident physician, examined appellant and stated that she reported no new trauma. He diagnosed bilateral knee arthritis. On July 7, 2005 Dr. Paul noted that appellant reported increased knee pain since a fall in October 2004 while at work. He diagnosed bilateral degenerative joint disease of the knee. Appellant also submitted additional duty status reports dated March 2, 2006.

By decision dated April 21, 2006, the Office stated that it declined to reopen appellant's claim for consideration of the merits. It noted that the request for reconsideration was not timely, but cited section 10.606(b)(2) of the Office's regulations.¹ The Office then performed a detailed

¹ 20 C.F.R § 10.606(b)(2).

review of the evidence submitted by appellant noting that she failed to submit “well-rationalized medical opinion of causal relationship.”²

LEGAL PRECEDENT

The Federal Employees’ Compensation Act³ specifies that an award for or against payment of compensation may be reviewed at any time on the Director’s own motion.⁴

The Office’s regulations define a traumatic injury as a condition of the body caused by a specific event or incident, or series of events or incidents, within a single workday or shift. Such condition must be 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.⁵

In order to determine whether an employee sustained a traumatic injury in the performance of duty, the Office begins with an analysis of whether “fact of injury” has been established. Generally, fact of injury consists of two components that must be considered in conjunction with one another. The first component to be established is that the employee actually experienced the employment incident that is alleged to have occurred. The second component is whether the employment incident caused a personal injury. Causal relationship is a medical question that can generally be resolved only by rationalized medical opinion evidence.⁶ This medical opinion must be based upon a complete factual and medical background with an accurate history of appellant’s employment injury. The weight of the medical evidence is determined by its reliability, its probative value, its convincing quality, the care of analysis manifested and the medical rationale expressed in support of the physician’s opinion.⁷

ANALYSIS

The Office issued a merit decision in this case on March 4, 2005 denying appellant’s claim for traumatic injury on the grounds that she had not established an injury as a result of her accepted employment incident of October 18, 2004. The Office received appellant’s request for reconsideration of this decision on March 21, 2006 more than one year after the March 4, 2005 merit decision. However, despite a finding that her request for reconsideration was untimely, the Office, on its own motion, considered appellant’s request for reconsideration. The Board finds that the Office conducted a merit review of appellant’s claim.

² Following the Office’s April 21, 2006 decision, appellant submitted additional new evidence. As the Office did not consider this evidence in reaching a final decision, the Board may not review the evidence for the first time on appeal. *See* 20 C.F.R. § 501.2(c)

³ 5 U.S.C. §§ 8101-8193.

⁴ 5 U.S.C. § 8128(a); 20 C.F.R. § 10.610.

⁵ 20 C.F.R. § 10.5(ee).

⁶ *Steven S. Saleh*, 55 ECAB 169, 171-72 (2003).

⁷ *James Mack*, 43 ECAB 321, 328-29 (1991).

The Office accepted that the employment incident of October 18, 2004 occurred as alleged. However, the Office found that the medical evidence submitted was not sufficiently detailed to establish that a left knee condition resulted from this incident. Appellant has provided medical evidence diagnosing a variety of left knee conditions including degenerative joint disease, chondromalacia and chronic arthritis and left knee pain. However, the medical evidence of record does not offer sufficient medical explanation to establish a causal relationship between appellant's various diagnoses and her accepted incident. The Board notes that conditions such as degenerative joint disease, arthritis and chondromalacia are generally developed over a period of time rather than attributable to a single employment event. The physicians of record did not offer any explanation of how the October 18, 2004 incident caused or contributed to the development of these conditions. The Board notes that the mere diagnosis of "pain" does not constitute the basis for the payment of compensation.⁸ Appellant has not submitted the necessary rationalized medical opinion evidence to establish a causal relationship between her diagnosed conditions and her accepted employment injury. The Office properly denied her claim.

CONCLUSION

The Board finds that the Office reviewed the merits of her claim. The Board further finds that as appellant did not submit sufficient medical opinion evidence to meet her burden of proof the Office properly denied her claim.

ORDER

IT IS HEREBY ORDERED THAT the April 21, 2006 decision of the Office of Workers' Compensation Programs is affirmed, as modified.

Issued: January 3, 2007
Washington, DC

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

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

James A. Haynes, Alternate Judge
Employees' Compensation Appeals Board

⁸ *Robert Broome*, 55 ECAB 339, 342 (2004).