

syndrome.” She became aware of her condition on August 19, 2005. Appellant did not stop work.

In a September 21, 2006 statement, appellant reiterated that she had an accepted claim for an injury to her left knee on October 9, 2004. The Office-approved surgery which was performed on June 15, 2005. Appellant alleged that, on August 19, 2005, her right knee began to bother her at work and her physician determined that it was a result of “compensating and depending on my right leg due to the injury of my left (knee) leg.”

In an August 10, 2006 report, Dr. David Morley, a Board-certified orthopedic surgeon, noted that appellant had injured her left knee while stepping out of an employing establishment motor vehicle on October 9, 2004. He indicated that appellant was compensating with her right knee and diagnosed modification of patellofemoral condition and degenerative joint disease (DJD). Dr. Morley checked the box “yes” in response to whether he believed that appellant’s condition was caused or aggravated by employment activity. He advised that appellant was totally disabled from October 12 to 26, 2004 and partially disabled from October 26, 2004 to present. Dr. Morley found that appellant could perform modified duty on October 26, 2004.

In a July 31, 2006 magnetic resonance imaging (MRI) scan of the right knee, Dr. Joseph Tadoro, a Board-certified radiologist, determined that appellant had DJD and joint effusion, a small radial tear of the posterior horn of the medial meniscus with mucoid degeneration of the posterior horn of the medial meniscus and evidence of excessive lateral pressure syndrome.

On October 19, 2006 the Office requested that appellant describe in detail the employment activities which she believed contributed to her condition and how often she performed the activities. It also requested that she provide a comprehensive report from her physician describing the symptoms, results of examination, tests and diagnosis and the treatment provided. The physician should also provide an opinion as to the cause of her condition. The Office also informed appellant that her claim for a consequential condition due to her accepted left knee injury would not be addressed under the present claim as it had previously addressed the matter under File No. 012027077. Appellant was allotted 30 days to submit the requested information.

On November 20, 2006 appellant indicated that she needed more time to obtain an opinion from her treating physician, as he informed her that the notes from her visit would “not be ready until next week.”

On December 1, 2006 the Office received a copy of appellant’s September 21, 2006 statement and a November 26, 2006 statement. Appellant stated that she sustained an on-the-job injury on October 9, 2004 to her left leg. She returned to work in a limited duty-capacity and was approved for surgery on June 15, 2005. Appellant alleged that she returned to work on August 3, 2005 for four hours a day at limited-light duty. Her job duties required that she constantly turn on her right leg to sort and case mail in a “back and forth motion.” Appellant alleged that her weight was always placed on her right knee. After returning to work on August 19, 2005, the pressure of turning on her right knee began to bother her.

In treatment notes dated November 15, 2005 to November 14, 2006, Dr. Morley opined that appellant's present complaints in her right knee originated from her left knee injury. He stated that appellant placed more stress on the right knee and developed "progressive right knee pain characterized by medial discomfort, swelling, occasional giving way and locking." Dr. Morley opined that it was his "professional opinion, within a medical degree of certainty, that [appellant's] right knee ongoing symptoms are causally related to the October 2004 industrial injury, she put more weight on the right knee tearing the medial meniscus and exacerbating the right knee arthritis."

By decision dated December 20, 2006, the Office denied appellant's claim for compensation as the evidence was insufficient to establish that she sustained an injury as alleged. The Office found that the evidence was insufficient to establish that the events occurred as alleged. The Office also found that there was no medical evidence which provided a diagnosis that could be connected to the claimed events.¹

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 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.³ These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁴

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 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. 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. The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable

¹ The Office also informed appellant that the evidence suggested that she was claiming a consequential injury and not a new injury and that the issue had already been addressed under File No. 012027077.

² 5 U.S.C. §§ 8101-8193.

³ *Joe D. Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

⁴ *Victor J. Woodhams*, 41 ECAB 345 (1989).

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.⁵

ANALYSIS -- ISSUE 1

In the instant case, appellant alleged that her right knee condition arose as a consequence of her accepted left knee condition. The Board notes that appellant was advised by the Office on October 19, 2006, that a formal decision on the matter of a consequential condition had been addressed under File No. 012027077. Thus, the issue of a consequential condition is a separate matter that is not presently before the Board.⁶

Appellant also alleged that her right knee condition was caused or aggravated by the activities of her federal employment, which included that she was constantly turning on her right leg to sort and case mail in a “back and forth motion.” The Office denied the claim finding that appellant had not established that the claimed events occurred as alleged and because the medical evidence did not relate appellant’s condition to the claimed events. The Board finds, however, that there is no evidence refuting that the claimed employment factor, turning on her right leg to sort and case mail in a “back and forth motion,” occurred. Consequently, the Board finds that appellant has established that she was turning on her right leg to sort and case mail in a “back and forth motion.” However, appellant has submitted insufficient medical evidence to establish that her right leg condition was caused or aggravated by constantly turning on her right leg to sort and case mail in a “back and forth motion” at work or any other specific factors of her federal employment.

The medical evidence submitted by appellant is not sufficient to establish that her condition was caused by factors of her employment. She provided an August 10, 2006 report in which Dr. Morley noted that appellant had injured her left knee at work on October 9, 2004 and had been compensating with her right knee. While Dr. Morley checked the box “yes” in response to whether he believed that appellant’s condition was caused or aggravated by employment activity, he did not explain how he arrived at his conclusion that the right knee condition was caused by factors of her employment. He did not identify any factors of appellant’s employment as contributing to her right knee condition. This is particularly important in light of his opinion that he believed her right leg condition arose as a result of compensating for her left leg condition. Moreover, it is well established that the checking of a box “yes,” in the absence of supporting rationale, is of little probative value in establishing causal relationship.⁷

Appellant also submitted her treatment notes from Dr. Morley dating to November 15, 2005. However, Dr. Morley continued to opine that appellant’s present

⁵ *Id.*

⁶ Appellant should contact the Office regarding File No. 012027077 should she wish to further pursue her claim of a consequential condition.

⁷ See *Barbara J. Williams*, 40 ECAB 649, 656 (1989).

complaints in her right knee originated from her left knee injury and opined that it was his “professional opinion, within a medical degree of certainty, that her right knee ongoing symptoms are causally related to the October 2004 industrial injury, as she put more weight on the right knee tearing the medial meniscus and exacerbating the right knee arthritis.” The Board notes that his opinion appears to be related to her claim for a consequential injury, which the Office has considered and developed under a separate claim, File No. 012027077. Dr. Morley did not offer any opinion that appellant’s right knee condition arose as a result of the factors of employment identified by appellant. Consequently, the Board finds that this evidence is insufficient to establish appellant’s claim.

Appellant also submitted a July 31, 2006 MRI scan from Dr. Tadoro. However, Dr. Tadoro merely reported findings and did not provide an opinion regarding the cause of the reported condition. Medical reports not containing rationale on causal relation are entitled to little probative value and are generally insufficient to meet an employee’s burden of proof.⁸

The Board has held that the mere fact that a condition manifests itself during a period of employment does not raise an inference that there is a causal relationship between the two.⁹ Neither the fact that the condition became apparent during a period of employment nor the belief that the condition was caused or aggravated by employment factors or incidents is sufficient to establish causal relationship.¹⁰ Causal relationship must be substantiated by reasoned medical opinion evidence, which is appellant’s responsibility to submit.

As there is no medical evidence explaining how appellant’s employment duties caused or aggravated her right knee condition, appellant has not met her burden of proof in establishing that she sustained a medical condition in the performance of duty causally related to factors of her employment.

CONCLUSION

The Board finds that appellant has not met her burden of proof in establishing that she sustained an injury in the performance of duty.

⁸ *Lois E. Culver (Clair L. Culver)*, 53 ECAB 412 (2002).

⁹ *See Joe T. Williams*, 44 ECAB 518, 521 (1993).

¹⁰ *Id.*

ORDER

IT IS HEREBY ORDERED THAT the December 20, 2006 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: October 23, 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