

On March 28, 2007 the Office requested that appellant submit additional factual and medical information in support of his claim. By decision dated May 10, 2007, it denied his claim on the grounds that he did not establish an injury as alleged. The Office noted that appellant had not responded to its request for information.

In a statement dated February 26, 2007, received by the Office on May 14, 2007, appellant described his history of work injuries to his knees in 2005 and 2006. He filed traumatic injury claims for the knee injuries. Appellant did not lose time from work. He noted that he participated in fitness training as a condition of employment. Appellant attributed his bilateral knee condition to fulfilling his employment duties. On February 11, 2007 he sustained a left knee injury while engaging in physical fitness training. In a March 13, 2007 letter, the employing establishment noted that appellant's February 11, 2007 injury occurred while he was at home and not in a duty status.

Appellant submitted his claims for traumatic injuries to his left knee on May 3, 2004 and February 15, 2007 and to his right knee on October 5, 2005. He further submitted numerous narrative reports and duty status reports from nurses and physical therapists. A physician examined appellant on February 12, 2007 and diagnosed a right knee sprain.¹ A physician noted that the injury occurred when a belt slipped on a treadmill.

At the hearing, held on September 10, 2007, appellant attributed his knee condition to cumulative injuries to his knees participating in operational readiness training. He noted that he sustained increased knee pain walking and working on a swamp cooler at his home. The hearing representative held the record open for the submission of a narrative medical report.

In a report dated September 21, 2007, Dr. Heidi Jochem, a Board-certified internist, noted that appellant had a history of right and left knee injuries while serving in the military. She provided the clinic notes relevant to his treatment for knee problems in 2006 and 2007. Dr. Jochem diagnosed patellar femoral syndrome and found that appellant "had documented exacerbations that probably were aggravated by required running."

By decision dated December 18, 2007, the hearing representative affirmed the May 10, 2007 decision as modified to show that appellant had not established a causal relationship between his knee condition and his federal employment.

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 and/or specific condition for which

¹ The name of the physician is not legible.

² 5 U.S.C. §§ 8101-8193.

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 on 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;⁵ (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition;⁶ and (3) medical evidence establishing 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.⁷

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.⁸ The opinion of the physician must be based on a complete factual and medical background of the claimant,⁹ must be one of reasonable medical certainty¹⁰ explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.¹¹

ANALYSIS

Appellant attributed his bilateral knee condition to cumulative trauma from prior work injuries and his employment duties, particularly participating in fitness training. The Office accepted the occurrence of the claimed employment factors. The issue, therefore, is whether the medical evidence establishes a causal relationship between the claimed conditions and the identified employment factors.

Appellant submitted reports from nurses and physical therapists. Section 8101(2) of the Act provides that the term "physician" includes surgeons, podiatrist, dentists, clinical

³ *Tracey P. Spillane*, 54 ECAB 608 (2003); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁴ *See Ellen L. Noble*, 55 ECAB 530 (2004).

⁵ *Michael R. Shaffer*, 55 ECAB 386 (2004).

⁶ *Marlon Vera*, 54 ECAB 834 (2003); *Roger Williams*, 52 ECAB 468 (2001).

⁷ *Beverly A. Spencer*, 55 ECAB 501 (2004).

⁸ *Conrad Hightower*, 54 ECAB 796 (2003); *Leslie C. Moore*, 52 ECAB 132 (2000).

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).

psychologists, optometrists, chiropractors and osteopathic practitioners within the scope of their practice as defined by State law.¹² As physical therapists and nurses are not “physicians” as defined under the Act, their reports do not constitute competent medical evidence.¹³

In a report dated February 12, 2007, a physician diagnosed a right knee sprain. The physician noted that the injury occurred while appellant used the treadmill. The physician did not address the cause of the diagnosed condition. The Board has held that medical evidence that does not offer any opinion regarding the cause of an employee’s condition is of diminished probative value on the issue of causal relationship.¹⁴

On September 21, 2007 Dr. Jochem reviewed the treatment received by appellant for knee problems from 2006 to 2007. She noted that he had preexisting bilateral knee problems from military service. Dr. Jochem diagnosed patellar femoral syndrome and opined that appellant “had documented exacerbations that probably were aggravated by required running.” Her conclusion that his patellar femoral syndrome “probably” was aggravated by physical exercise required by his employment is couched in speculative terms and thus of diminished probative value.¹⁵ Further, Dr. Jochem did not provide any rationale for her causation finding. A mere conclusion without the necessary rationale explaining how and why the physician believes that a claimant’s accepted exposure could result in a diagnosed condition is not sufficient to meet a claimant’s burden of proof.¹⁶

An award of compensation may not be based on surmise, conjecture, speculation, or upon appellant’s own belief that there is a causal relationship between his claimed condition and his employment.¹⁷ Appellant must submit a physician’s report in which the physician reviews those factors of employment identified by him as causing his condition and, taking these factors into consideration as well as findings upon examination and the medical history, explain how employment factors caused or aggravated any diagnosed condition and present medical rationale in support of his or her opinion.¹⁸ He failed to submit such evidence and therefore failed to discharge his burden of proof.

CONCLUSION

The Board finds that appellant has not established that he sustained a bilateral knee condition due to factors of his federal employment.

¹² 5 U.S.C. § 8101(2); *Roy L. Humphrey*, 57 ECAB 316 (2005).

¹³ See *David P. Sawchuk*, 57 ECAB 316 (2006); *Vincent Holmes*, 53 ECAB 468 (2002).

¹⁴ *Conard Hightower*, 54 ECAB 796 (2003).

¹⁵ *Id.*

¹⁶ See *Beverly A. Spencer*, *supra* note 7.

¹⁷ *Patricia J. Glenn*, 53 ECAB 159 (2001).

¹⁸ *Robert Broome*, 55 ECAB 339 (2004).

ORDER

IT IS HEREBY ORDERED THAT the decisions of the Office of Workers' Compensation Programs dated December 18 and May 10, 2007 are affirmed.

Issued: July 23, 2008
Washington, DC

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

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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