



By letter dated October 15, 2007, the Office advised appellant that additional factual and medical evidence was needed. Appellant was requested to describe in detail how the injury occurred and to provide dates of examination and treatment, a history of injury given by her to a physician, a detailed description of any findings, the results of all x-rays and laboratory tests, a diagnosis and course of treatment followed and a physician's opinion supported by a medical explanation as to how the reported work incident caused the claimed injury. The Office explained that the physician's opinion was crucial to her claim and allotted 30 days within which to submit the requested information.

The Office received reports dated September 13 and October 11, 2007 from Dr. Peter Callander, a Board-certified orthopedic surgeon, who noted that appellant injured her left knee while moving a patient on August 18, 2007. Dr. Callander advised that a magnetic resonance imaging (MRI) scan of the left knee demonstrated a large flap tear of the posterior horn of the medial meniscus. He diagnosed left knee medial meniscal tear and *pes anserinus* tendinitis. Dr. Callander noted that appellant had pain on the inside of her knee aggravated with walking, standing, twisting and pivoting. Appellant reported no significant improvement of overall symptoms since the injury and recommended an arthroscopic partial medial meniscectomy, which was preformed on October 3, 2007. Also submitted was a September 4, 2007 MRI scan report referenced by Dr. Callander.

In a letter dated October 22, 2007, appellant described how she injured her left knee. She indicated that, while lifting a patient, she bumped her left knee on the edge of the bed. Appellant informed the nursing supervisor, Joan Langon, the next day. In a statement dated October 31, 2007, Garfield Powell, Jr., the acute care nurse manager and appellant's immediate supervisor, asserted that appellant never informed him or the other nurse manager that she sustained a work injury. When he questioned appellant why she did not report her injury at the time, she replied, "I did not think I was too injured."

By decision dated November 23, 2007, the Office denied appellant's claim on the grounds that the medical evidence was insufficient to establish that her condition was caused by the established incident.

On December 30, 2007 appellant requested reconsideration. In a December 31, 2007 statement, she indicated that she had prior left knee problems but that they were not symptomatic on August 18, 2007. Appellant submitted copies of reports previously of record. In an October 29, 2007 report, Dr. Callander related a history of the August 18, 2007 incident, noting that it occurred when appellant lost her balance while helping a patient causing her to hit the outside of her left knee on the edge of the bed. Dr. Callander advised that appellant went home with a swollen knee, pain with weight bearing and discomfort with range of motion. He stated that appellant currently reported improvement of her overall symptoms following surgery, though she still had some postoperative stiffness.

By decision dated March 24, 2008, the Office denied modification of its prior decision.

On April 23, 2008 appellant requested reconsideration. In an August 31, 2007 report Dr. Adrian Rawlinson, Board-certified in family medicine and an associate of Dr. Callander, noted that "around August 9, 2007" appellant was lifting a patient when her left knee became

very painful. Dr. Rawlinson opined that she might have osteoarthritis and that she also had medial joint line tenderness of the left knee. As there was a question as to whether appellant may have injured the medial meniscus, Dr. Rawlinson ordered an MRI scan. In a September 6, 2007 report, Dr. Rawlinson referred appellant for a surgical consultation. In an October 3, 2007 operative report, Dr. Callander indicated that he had performed an arthroscopic medial femoral condyle chondroplasty of the left knee. He advised that appellant injured her knee while working at the employing establishment.

By decision dated July 24, 2008, the Office denied modification of its prior decision.

### **LEGAL PRECEDENT**

An employee seeking benefits under the Federal Employees' Compensation Act<sup>1</sup> 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<sup>2</sup> and that an injury was sustained in the performance of duty.<sup>3</sup> These are the essential elements of each compensation claim, regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.<sup>4</sup>

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it must first be determined whether a "fact of injury" has been established. First, the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time, place and in the manner alleged.<sup>5</sup> Second, the employee must submit sufficient evidence, generally only in the form of medical evidence, to establish that the employment incident caused a personal injury.<sup>6</sup>

### **ANALYSIS**

Appellant alleged that she sustained an injury to her left knee on August 18, 2007 when she was helping a patient at work. Although the employing establishment controverted the claim and alleged that she did not timely report her injury, appellant was consistent in her statement that she injured her left knee while helping a patient at work. Furthermore, there is no evidence negating that appellant assisting a patient on August 18, 2007 when she struck her left knee against a bed. The Board finds that the claimed incident occurred as alleged.

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<sup>1</sup> 5 U.S.C. §§ 8101-8193.

<sup>2</sup> *Joe D. Cameron*, 41 ECAB 153 (1989).

<sup>3</sup> *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

<sup>4</sup> *Delores C. Ellyett*, 41 ECAB 992 (1990).

<sup>5</sup> *John J. Carlone*, 41 ECAB 354 (1989).

<sup>6</sup> *Id.*

However, the medical evidence is insufficient to establish that the employment incident caused an injury. The medical reports of record do not establish personal injury on August 18, 2007. The medical evidence contains no rationale<sup>7</sup> explaining how the employment incident of August 18, 2007 caused or aggravated a diagnosed medical condition.

Appellant provided several reports from Dr. Callander dated September 13 to October 29, 2007. Dr. Callander noted that she injured her left knee while moving a patient on August 18, 2007. He diagnosed left knee medial meniscal tear and *pes anserinus* tendinitis. Dr. Callander noted that, since that time, appellant had continued pain on the inside of her knee aggravated with walking, standing, twisting and pivot activity. On October 29, 2007 he repeated the history of injury and noted that the MRI scan of the left knee demonstrated a large flap tear of the posterior horn of the medial meniscus extending to the root attachment. In his October 3, 2007 operative report, Dr. Callander stated that appellant injured her knee at work. He did not explain, however, in any of his reports, how the incident of striking her knee on the side of the bed would cause a medial meniscus tear or other left knee injury. Thus, Dr. Callander's opinion is of diminished probative value.<sup>8</sup> The need for medical rationale explaining how the August 18, 2007 work incident caused or aggravated the diagnosed torn medial meniscus is especially important since the evidence indicates that appellant had a prior left knee condition.

The August 31, 2007 report from Dr. Rawlinson is of limited probative value in part because he noted an injury date of more than a week earlier. Although he noted that appellant was lifting a patient when her left knee became painful, he opined that there was a question as to whether she may have injured the medial meniscus and ordered an MRI scan. The Board notes that this opinion is equivocal and unrationalized to the extent that the physician addressed causal relationship. The Board has held that medical opinions based upon an incomplete history or which are speculative or equivocal in character are of diminished probative value.<sup>9</sup> Other medical reports submitted by appellant are insufficient as they did not specifically address whether the August 18, 2007 work incident caused or aggravated a diagnosed medical condition.

The medical reports submitted by appellant do not explain how the August 18, 2007 incident caused or aggravated her left knee condition. The reports are of limited probative value and are insufficient to establish her claim.

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<sup>7</sup> See *George Randolph Taylor*, 6 ECAB 986, 988 (1954) (where the Board found that a medical opinion not fortified by medical rationale is of little probative value).

<sup>8</sup> *Jaja K. Asaramo*, 55 ECAB 200, 204 (2004). Causal relationship is a medical question, which generally requires rationalized medical opinion evidence to resolve the issue. See *Robert G. Morris*, 48 ECAB 238 (1996). A physician's opinion on whether there is a causal relationship between the diagnosed condition and the implicated employment factors must be based on a complete factual and medical background. *Victor J. Woodhams*, 41 ECAB 345, 352 (1989). Additionally, the physician's opinion must be expressed in terms of a reasonable degree of medical certainty and must be supported by medical rationale, explaining the nature of the relationship between the diagnosed condition and appellant's specific employment factors. *Id.*

<sup>9</sup> *Vaheh Mokhtarians*, 51 ECAB 190 (1999).

**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.<sup>10</sup>

**ORDER**

**IT IS HEREBY ORDERED THAT** the July 24 and March 24, 2008 and November 23, 2007 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: July 2, 2009  
Washington, DC

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

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

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

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<sup>10</sup> Following the issuance of the Office's July 24, 2008 decision, appellant submitted additional evidence. However, the Board may not consider such evidence for the first time on appeal. *See* 20 C.F.R. § 501.2(c). This decision does not preclude appellant from seeking to have the Office consider such evidence pursuant to a reconsideration request filed with the Office.