

injury unit, including repositioning patients weighing between 200 and 275 pounds every two hours, pushing medical carts, emptying Foley catheter bags, replacing dressings and providing other aspects of total care. She became aware of her condition and stopped work on December 8, 2010.²

In a December 16, 2010 letter, OWCP informed appellant that additional evidence was needed to establish her claim. It gave her 30 days to submit a factual statement describing the employment factors that contributed to the right knee injury and a medical report from a physician explaining how exposure to these factors caused or aggravated her condition.

Appellant detailed in a December 22, 2010 statement that she had been stationed at spinal cord injury inpatient unit 1H since November 21, 2010 when she noticed right knee pain and swelling. On December 8, 2010 she provided total care to six nonambulatory patients, which entailed bending to empty Foley catheter bags, replacing dressing and repositioning bodies every two hours in accordance with hospital protocol or to change soiled linens. Appellant specified that she used a draw sheet as needed to pull and lift patients to check for wetness, wrinkled sheets and kinked catheter tubing. In addition, she walked extensively as the unit was spread out.

In a December 1, 2010 work status note, Dr. Alex D. Collins, an osteopath specializing in orthopedic surgery, released appellant to full-time duty effective December 2, 2010. In a December 9, 2010 note, he placed her on restricted duty beginning December 10, 2010. Dr. Collins' December 17, 2010 duty status report related her account that she injured her right knee on the job while taking care of patients and diagnosed knee osteoarthritis. He also acknowledged that she previously underwent knee surgery.³

The employing establishment controverted the claim in a December 28, 2010 letter, asserting that appellant requested sick leave from her supervisor on December 9, 2010, but did not report a work-related injury. It contended that she did not furnish adequate medical evidence.⁴

By decision dated January 19, 2011, OWCP denied appellant's claim, finding the medical evidence insufficient to demonstrate that the accepted work factors were causally related to a right knee condition.

Appellant requested reconsideration on February 3, 2011 and submitted additional medical evidence. In a February 1, 2011 report, Dr. Collins noted that she twisted her right knee while moving a patient on May 22, 2009. A magnetic resonance imaging (MRI) scan obtained on June 18, 2009 exhibited medial and lateral meniscal tears. Appellant elected to undergo

² OWCP previously accepted a claim for right medial meniscus tear, right lateral meniscus tear and right primary localized osteoarthritis. OWCP File No. xxxxxx224. That claim is not before the Board on the present appeal.

³ A subsequent January 20, 2011 duty status report from Dr. Collins essentially duplicated the contents of the December 17, 2010 version.

⁴ OWCP also received a supervisor's corroborating statement dated January 3, 2011, the employing establishment's safe patient handling policy, a leave balance printout and appellant's position description.

arthroscopic surgery, which was performed on July 16, 2009. Following the procedure, she participated in physical therapy and was temporarily assigned to limited duty. Appellant resumed full-time work effective April 12, 2010. By statement dated November 2, 2010, she complained of right knee symptoms. Appellant's condition improved after she received Euflexxa injections. She was later informed by a regional manager that she would be transferred to a different work area and placed on modified duty. During a recent visit, on January 19, 2011, appellant noted that her right knee pain was aggravated by her job. On examination, Dr. Collins observed lateral compartment tenderness and mild crepitus on range of motion (ROM). He opined that appellant's present knee osteoarthritis, which resulted from the original meniscal tears, was exacerbated by her employment duties, namely repositioning patients every two hours, pushing medical carts, emptying Foley catheter bags and replacing dressing. Dr. Collins explained, "Continual use of the knee would have continued to wear on the cartilage of the knee, which in turn would have worsened the osteoarthritis."⁵

In a March 1, 2011 letter, the employing establishment challenged appellant's request, contending that the medical evidence remained insufficient to establish her claim.

On April 7, 2011 OWCP denied modification of the January 19, 2011 decision.

LEGAL PRECEDENT

An employee seeking benefits under FECA 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 FECA, that the claim was timely filed within the applicable time limitation period, that an injury was sustained in the performance of duty as alleged and that any disabilities and/or specific conditions for which compensation is claimed are causally related to the employment injury.⁶ 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.⁷

Whether an employee actually sustained an injury in the performance of duty begins with an analysis of whether fact of injury has been established.⁸ To establish fact of injury in an occupational disease claim, an employee must submit: (1) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; (2) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; and (3) medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the employee.⁹

⁵ Dr. Collins' February 3, 2011 duty status report reiterated clinical findings of lateral compartment tenderness and a diagnosis of osteoarthritis and advised ongoing work restrictions.

⁶ *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁷ *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁸ *See S.P.*, 59 ECAB 184, 188 (2007).

⁹ *See Roy L. Humphrey*, 57 ECAB 238, 241 (2005); *R.R.*, Docket No. 08-2010 (issued April 3, 2009).

Causal relationship is a medical issue and the evidence generally required to establish causal relationship is rationalized medical opinion evidence. Rationalized medical opinion evidence is evidence which includes a physician's 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, must be one of reasonable 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.¹⁰

ANALYSIS

The Board finds that the case is not in posture for decision.

An employee who claims benefits under FECA has the burden of establishing by the weight of reliable, probative and substantial evidence that the condition for which compensation is sought is causally related to a specific employment incident or work factors. As part of this burden, the employee must present rationalized medical opinion evidence based on a complete and accurate factual and medical background. However, it is well established that proceedings under FECA are not adversarial in nature and OWCP is not a disinterested arbiter. While an employee has the burden to establish entitlement to compensation, OWCP shares responsibility in the development of the evidence and has the obligation to see that justice is done.¹¹

The case record supports that appellant repositioned patients, pushed medical carts, emptied Foley catheter bags and replaced dressing in the performance of duty. She was diagnosed with right knee osteoarthritis secondary to meniscal tears. OWCP denied appellant's occupational disease claim on the basis that the medical evidence did not sufficiently establish that these accepted work factors aggravated her preexisting condition.

The Board finds that the medical evidence from Dr. Collins for the period December 1, 2010 to February 3, 2011 was not sufficiently rationalized to meet appellant's burden of proof. None of the documents offered a sound pathophysiological explanation of how her employment duties aggravated her right knee osteoarthritis,¹² but Dr. Collins' February 1, 2011 report addressed causal relationship. Dr. Collins provided a thorough history of appellant's right knee condition, prior diagnostic testing and results from surgery. He reviewed the medical file, conducted a physical examination, and rendered a diagnosis and opinion that were consistent with the clinical findings noting that her knee condition was aggravated by her duties as a nurse. Although Dr. Collins' explanation concerning etiology did not provide detailed medical rationale, it was sufficient to require further medical development by OWCP.¹³

¹⁰ *I.J.*, 59 ECAB 408 (2008); *Woodhams*, *supra* note 7.

¹¹ *William J. Cantrell*, 34 ECAB 1233 (1983); *E.J.*, Docket No. 09-1481 (issued February 19, 2010).

¹² *Joan R. Donovan*, 54 ECAB 615, 621 (2003); *Ern Reynolds*, 45 ECAB 690, 696 (1994).

¹³ *See John J. Carlone*, 41 ECAB 354 (1989); *Horace Langhorne*, 29 ECAB 820 (1978).

On remand OWCP should prepare a statement of accepted facts and develop the medical evidence by referring appellant to an appropriate Board-certified specialist for a rationalized medical opinion regarding whether her job duties aggravated her right knee osteoarthritis. It should also combine claim file xxxxxx224 with the present claim as both claims pertain to the right knee.¹⁴ After conducting such further development as it may find necessary, OWCP shall issue an appropriate merit decision.¹⁵

CONCLUSION

The Board finds that the case is not in posture for decision and must be remanded for further development of the record.

ORDER

IT IS HEREBY ORDERED THAT the January 19 and April 7, 2011 decisions of the Office of Workers' Compensation Programs be set aside and the case remanded for further action consistent with this decision of the Board.

Issued: December 23, 2011
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

¹⁴ See Federal (FECA) Procedure Manual, Part 2 -- Claims, *File Maintenance and Management*, Chapter 2.400.8(c)(1) (February 2000).

¹⁵ The Board notes that appellant submitted new evidence after issuance of the April 7, 2011 decision. The Board lacks jurisdiction to review evidence for the first time on appeal. 20 C.F.R. § 501.2(c).