

On appeal, appellant's attorney contends that OWCP's decision was contrary to fact and law.

FACTUAL HISTORY

On September 9, 2009 appellant, then a 39-year-old transportation security officer, filed an occupational disease claim (Form CA-2) alleging that she developed right and left knee arthritis which she attributed to factors of her federal employment on July 20, 2009 after a physician suggested that it was aggravated by prolonged standing at work.

By letter dated September 11, 2009, OWCP requested additional evidence to support her claim and allotted 30 days for submission.

In a September 29, 2009 narrative statement, appellant indicated that her duties required standing, bending and squatting for seven hours a day.

Appellant submitted an undated radiological report by Dr. William T. Hardaker, Jr., a Board-certified orthopedic surgeon, who diagnosed mild patellofemoral degenerative changes based on a magnetic resonance imaging (MRI) scan of the right knee.

By decision dated October 14, 2009, OWCP denied appellant's claim on the grounds that the medical evidence submitted did not establish fact of injury.

In a September 15, 2009 medical report, Dr. Hardaker diagnosed chondral flap. In a September 22, 2009 medical report, he reiterated his diagnosis of chondral flap.

In an October 8, 2009 medical report, Dr. Leonard D. Nelson, Jr., a Board-certified orthopedic surgeon, reported that appellant went back to work and placed her on the following restrictions: no lifting over 15 pounds, limited bending, stooping, twisting, kneeling, squatting, repetitive motions, no pushing or pulling over 15 pounds and flexible sit/stand schedule with a 30-minute rotation.

On October 11, 2009 the employing establishment indicated that appellant was working a light-duty assignment from October 14, 2006 to July 9, 2009 after a September 26, 2006 injury. Appellant's restrictions included no lifting over 15 pounds, limited bending, stooping, twisting, kneeling, squatting, repetitive motions, no pushing or pulling over 15 pounds and flexible sit/stand schedule with a 30-minute rotation.

On December 15, 2009 appellant accepted a limited-duty assignment as a transportation security officer.

By letter dated April 26, 2010, appellant informed OWCP that Dr. Hardaker refused to respond to letters and e-mail correspondence. She switched to Dr. David Boone, a Board-certified orthopedic surgeon, who performed right knee surgery on January 18, 2010.

On September 15, 2010 appellant requested reconsideration and submitted additional evidence. She also resubmitted her September 29, 2009 narrative statement.

In a September 15, 2009 medical report, Dr. Hardaker diagnosed minimal degenerative changes in the patellofemoral joint, possible cartilaginous defect and a positive patellar inhibition test. He reported appellant's belief that her symptoms stemmed from long periods of time spent standing at work.

In a September 17, 2009 radiological report, Dr. Brian C. Ruiz-de-Luzuriaga, a Board-certified radiologist, reviewed a magnetic resonance imaging (MRI) scan of the right knee and compared it to a right knee x-ray of July 20, 2009. He found a three-millimeter (mm) near full thickness chondral defect involving the medial trochlear facet superiorly, a mild surface irregularity involving the lateral patellar facet and small Baker's cyst.

In a September 22, 2009 progress report, Dr. Hardaker indicated that a September 17, 2009 MRI scan of the right knee revealed a chondral flap in the trochlea. He recommended an arthroscopy and chondroplasty to prevent propagation and to help control her symptoms of clicking, popping and catching.

In a January 18, 2010 operative report, Dr. Boone identified the preoperative diagnosis as chondral lesion, trochlea and right knee. He performed a right knee arthroscopy with chondroplasty of patella and abrasion chondroplasty trochlea and chondroplasty of lateral tibial plateau. After surgery, Dr. Boone diagnosed chondral lesion, trochlea, right knee with chondromalacia patella, chondromalacia lateral tibial plateau.

By decision dated November 1, 2010, OWCP granted modification, in part, of the October 14, 2009 decision. It found that, while the medical evidence submitted was sufficient to establish fact of injury, OWCP was not sufficient to establish causal relationship.

LEGAL PRECEDENT

An employee seeking benefits under FECA³ 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 of FECA, and that an injury⁴ was sustained in the performance of duty. These are the essential elements of each compensation claim, regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁵

To establish that an injury was sustained in the performance of duty in a claim for an occupational disease claim, an employee must submit the following: (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

³ 5 U.S.C. §§ 8101-8193.

⁴ OWCP's regulations define an occupational disease or illness as a condition produced by the work environment over a period longer than a single workday or shift. 20 C.F.R. § 10.5(q).

⁵ *Ellen L. Noble*, 55 ECAB 530 (2004). See *O.W.*, Docket No. 09-2110 (issued April 22, 2010).

evidence establishing that the diagnosed condition is causally related to the employment factors identified by the employee.⁶

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical evidence. Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on whether there is a causal relationship between the employee'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 employee, 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 employee.⁷

ANALYSIS

The Board finds that appellant failed to meet her burden of proof to establish a claim that federal employment factors caused or aggravated her right and left knee arthritis. While appellant submitted a statement in which she identified the factors of employment that she believed caused the condition, in order to establish a claim that she sustained an employment-related injury, she must also submit rationalized medical evidence which explains how her medical conditions were caused or aggravated by the implicated employment factors.⁸

On September 15, 2009 Dr. Hardaker diagnosed minimal degenerative changes in the patellofemoral joint and reported appellant's belief that her symptoms stemmed from long periods of time spent standing at work. On September 22, 2009 he indicated that a September 17, 2009 MRI scan of the right knee revealed a chondral flap in the trochlea. In a September 17, 2009 radiological report, Dr. Ruiz-de-Luzuriaga found a three mm near full thickness chondral defect involving the medial trochlear facet superiorly, a mild surface irregularity involving the lateral patellar facet and small Baker's cyst. In an October 8, 2009 medical report, Dr. Nelson reported that appellant went back to work and he issued medical restrictions. On January 18, 2010 Dr. Boone performed a right knee arthroscopy with chondroplasty of patella and abrasion chondroplasty trochlea and chondroplasty of lateral tibial plateau. After surgery, he diagnosed chondral lesion, trochlea, right knee with chondromalacia patella, chondromalacia lateral tibial plateau. Drs. Hardaker, Ruiz-de-Luzuriaga, Nelson and Boone failed to directly address the issue of causal relationship as they did not provide a rationalized medical opinion explaining how factors of appellant's federal employment, such as standing, bending and squatting, caused or aggravated her right and left knee arthritis. The Board has held that medical evidence that does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship.⁹ Lacking

⁶ See *Roy L. Humphrey*, 57 ECAB 238, 241 (2005); *Ruby I. Fish*, 46 ECAB 276, 279 (1994); *Victor J. Woodhams*, 41 ECAB 345 (1989); *D.R.*, Docket No. 09-1723 (issued May 20, 2010).

⁷ *O.W.*, *supra* note 5.

⁸ See *Donald W. Wenzel*, 56 ECAB 390 (2005); *Leslie C. Moore*, 52 ECAB 132 (2000). See also *A.C.*, Docket No. 08-1453 (issued November 18, 2008).

⁹ See *C.B.*, Docket No. 09-2027 (issued May 12, 2010); *S.E.*, Docket No. 08-2214 (issued May 6, 2009).

thorough medical rationale on the issue of causal relationship, the medical reports of Drs. Hardaker, Ruiz-de-Luzuriaga, Nelson and Boone are insufficient to establish that appellant sustained an employment-related injury.

As appellant has not submitted any rationalized medical evidence to support her allegation that she sustained an injury causally related to the implicated employment factors, she failed to meet her burden of proof to establish a claim.

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

CONCLUSION

The Board finds that appellant failed to meet her burden of proof to establish that she developed right and left knee arthritis in the performance of duty causally related to factors of her federal employment.

ORDER

IT IS HEREBY ORDERED THAT the November 1, 2010 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: September 12, 2011
Washington, DC

Alec J. Koromilas, Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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