

FACTUAL HISTORY

On October 20, 2011 appellant, then a 53-year-old sale services and distribution associate, filed a claim for occupational disease alleging a torn meniscus of the left knee due to her work activities. She first became aware of the condition and its relationship to her employment on June 22, 2011. Appellant's supervisor noted on the claim form that the injury was reported on October 17, 2011 and the claim was challenged for lack of causal relationship.

By letter dated October 28, 2011, OWCP advised appellant that additional medical and factual evidence was necessary to establish her claim. Appellant was requested to provide a description of specific employment activities and duties alleged to have caused her condition and a physician's opinion, supported by medical rationale, as to how these alleged factors caused a diagnosed medical condition.

On November 10, 2011 OWCP received a statement dated September 9, 2011. Appellant alleged that her knee pain initially started on June 22, 2011 when she squatted down to lift a parcel from the floor. She left work early that day to consult with a physician, who obtained x-rays. Appellant stated that her pain persisted and intensified in the following months, even after medical treatment. She noted that after sitting her leg would catch and lock when she attempted to stand and that her legs would swell after walking.

In a June 22, 2011 x-ray report, Dr. Rick Seabolt, a Board-certified orthopedic surgeon, noted significant degenerative changes of the medial compartment in her right knee with near complete obliteration of the medial CMP and near bone-to-bone changes, and that her left knee showed mild degenerative changes with mild patellofemoral degenerative changes.

OWCP also received medical reports dated July 14 to August 29, 2011 signed by Dr. David Navid, a Board-certified orthopedic surgeon and osteopathic physician, who diagnosed a complex tear of the body and posterior horn of the medial meniscus, advanced degenerative arthritis of the medial compartment of the left knee with a popliteal cyst, based upon an MRI scan. Dr. Navid stated that appellant's symptoms dated back to a work-related injury, which occurred on June 22, 2011, when she was squatting down and moving some objects.

On December 2, 2011 OWCP received a statement from appellant's supervisor detailing her employment duties.

By decision dated December 2, 2011, OWCP denied appellant's claim on the grounds that she did not establish a medical condition caused by factors of her federal employment.³

³ On January 25, 2012 appellant filed a request for review of the written record. She filed this appeal on January 27, 2012. On February 6, 2012 OWCP denied appellant's request for review of the written record. The February 6, 2012 decision is null and void as OWCP may not issue a decision granting or denying a request for a hearing or review of the written record regarding the same issue on appeal before the Board. *See Arlonia B. Taylor*, 44 ECAB 591 (1993); *see also D.B.*, Docket No. 10-397 (issued January 26, 2011).

LEGAL PRECEDENT -- ISSUE 1

An employee seeking benefits under FECA⁴ has the burden to establish the essential elements of 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, that an injury was sustained in the performance of duty as alleged and that any disability or medical condition for which compensation is claimed is causally related to the employment injury.⁵

To establish that an injury was sustained in the performance of duty in a claim for occupational disease, 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.⁶

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion 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 compensable 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 -- ISSUE 1

Appellant has alleged that on June 22, 2011 she experienced left knee pain when she squatted down to lift a parcel from the floor. She thereafter experienced increasing pain until she filed her claim for occupational disease. A traumatic injury is defined by OWCP's implementing regulations as "a condition of the body caused by a specific event or incident, a series of events or incidents, within a single workday or shift. Such condition must be caused by external force, including stress or strain, which is identifiable as to time and place of occurrence and member or function of the body affected."⁸ An occupational disease is defined as a condition produced by the work environment over a period longer than a single workday or shift.⁹ Appellant's specific allegation pertains to an event on one day; however, she generally alleged that her employment duties contributed to her left knee condition. OWCP properly adjudicated this claim as one for occupational disease.

⁴ 5 U.S.C. §§ 8101-8193.

⁵ *Steven S. Saleh*, 55 ECAB 169 (2003); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁶ *See Roy L. Humphrey*, 57 ECAB 238, 241 (2005); *Ruby I. Fish*, 46 ECAB 276, 279 (1994).

⁷ *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

⁸ 20 C.F.R. § 10.5(ee); *see also J.W.*, Docket No. 11-1475 (issued December 7, 2011).

⁹ *Id.* at § 10.5(q).

The Board finds that she has not established that her left knee condition was caused or contributed to by her employment.

Dr. Navid's medical reports diagnosed a complex tear of the body and posterior horn of the medial meniscus with advanced degenerative arthritis, based upon his review of an MRI scan. He stated in an August 29, 2011 report that appellant's symptoms apparently dated back to a "work-related injury" that occurred on June 22, 2011 when she squatted down and moved some objects. Dr. Navid, however, failed to establish causal relationship because he did not adequately explain how appellant's work activities caused or aggravated the diagnosed knee conditions. Appellant's June 22, 2011 x-ray revealed mild degenerative changes of the left knee, with significant right knee degenerative changes. Dr. Navid referred to review of an MRI scan, which is not of record, that purportedly noted significant left knee diagnoses. He did not explain how appellant's June 22, 2011 incident or other work activities caused or contributed to the conditions he diagnosed. The Board has held that medical reports consisting solely of conclusory statements without supporting rationale are of diminished probative value.¹⁰

As such, the medical evidence of record is insufficient to establish that appellant's work activities caused or aggravated her left knee condition.

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 did not establish that she sustained an occupational disease in the performance of duty.

¹⁰ *William C. Thomas*, 45 ECAB 591 (1994).

ORDER

IT IS HEREBY ORDERED THAT the December 2, 2011 decision of the Office of Workers' Compensation Programs be affirmed.

Issued: August 13, 2012
Washington, DC

Richard J. Daschbach, Chief Judge
Employees' Compensation Appeals Board

Patricia Howard Fitzgerald, Judge
Employees' Compensation Appeals Board

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