

**United States Department of Labor  
Employees' Compensation Appeals Board**

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**S.R., Appellant**

**and**

**DEPARTMENT OF THE NAVY, OFFICE OF  
NAVAL RESEARCH, Arlington, VA, Employer**

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**Docket No. 12-126  
Issued: June 1, 2012**

*Appearances:*  
*Appellant, pro se*  
*Office of Solicitor, for the Director*

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

RICHARD J. DASCHBACH, Chief Judge  
MICHAEL E. GROOM, Alternate Judge  
JAMES A. HAYNES, Alternate Judge

**JURISDICTION**

On October 19, 2011 appellant filed a timely appeal from a July 25, 2011 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act<sup>1</sup> (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of the case.

**ISSUE**

The issue is whether appellant met her burden of proof to establish that she sustained a traumatic injury in the performance of duty on February 16, 2011.

**FACTUAL HISTORY**

On February 23, 2011 appellant, then a 57-year-old program analyst, filed a traumatic injury claim alleging that she strained her right knee and lower leg when she tripped and fell at work on February 16, 2011. A continuation of pay nurse noted in a February 28, 2011 report

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<sup>1</sup> 5 U.S.C. § 8101 *et seq.*

that appellant was diagnosed with right knee contusion and hematoma and rendered totally disabled until March 10, 2011.

OWCP informed appellant in a March 8, 2011 letter that additional information was needed to establish her claim. It gave her 30 days to submit a medical report from a qualified physician explaining how a right lower extremity injury resulted from the alleged February 16, 2011 employment incident.

In a February 24, 2011 report, Rachel T. Hastings, a certified physician's assistant, related that appellant was walking down an incline on February 16, 2011 when she fell forward and landed on her right knee. On examination, she observed ecchymosis, tenderness to palpation, and limited range of motion. X-rays exhibited anterior-superior patellar spurring and patellofemoral joint space narrowing. Ms. Hastings diagnosed right knee contusion and hematoma. In a follow-up report dated March 10, 2011, she documented mild improvement, pointing out that appellant was able to extend her right knee and lift her leg off the examination table and that the hematoma was "superficial."

In an April 7, 2011 report, Ms. Hastings reexamined appellant's right knee and observed anterior-superior tenderness, pain, weakness and hematoma formation while noting the absence of ecchymosis and diminished swelling. X-rays showed patellar osteophytes, medial compartment narrowing and degenerative patellofemoral changes. Ms. Hastings diagnosed right knee contusion and hematoma formation status post fall with underlying osteoarthritis and possible partial quadriceps tendon rupture.

By decision dated April 14, 2011, OWCP denied appellant's claim, finding the medical evidence insufficient to establish that the accepted February 16, 2011 employment incident caused or contributed to a right leg condition.

Appellant requested a review of the written record on May 11, 2011 and submitted new evidence. A February 24, 2011 note cosigned by Ms. Hastings and Dr. Mark H. Henderson, Jr., a Board-certified orthopedic surgeon, opined that appellant was totally disabled from February 24 to March 10, 2011. Subsequent March 10 and April 7, 2011 notes recommended light-duty telework for the period March 11 to May 5, 2011.

In an April 7, 2011 prescription note, Dr. Henderson referred appellant for physical therapy. He later cosigned a May 24, 2011 physical therapist's report diagnosing right knee contusion, joint pain and stiffness and advising that she fell on her right knee at work on February 16, 2011 while walking to the restroom.<sup>2</sup>

In a May 3, 2011 report, Ms. Hastings reiterated that appellant fell at work and injured her knee in February 2011. On examination, she observed diminished swelling and quadriceps tendon tenderness. Ms. Hastings diagnosed right knee contusion with hematoma formation status post fall and possible partial quadriceps tendon rupture. She noted appellant's preexisting history of knee osteoarthritis.

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<sup>2</sup> Appellant provided additional physical therapy records from May 24 to June 9, 2011.

A May 13, 2011 magnetic resonance imaging (MRI) scan obtained by Dr. Matthew A. Kalman, a Board-certified diagnostic radiologist, exhibited large hemorrhagic fluid collection or hematoma in the anterior subcutaneous tissues overlying the distal quadriceps tendon, patella and patellar tendon, chronic quadriceps tendinosis, patellar enthesopathy and minimal medial femoral condyle chondromalacia.

On July 25, 2011 OWCP's hearing representative affirmed the April 14, 2011 decision.

### **LEGAL PRECEDENT**

An employee seeking compensation under FECA has the burden of establishing the essential elements of her claim by the weight of reliable, probative and substantial evidence,<sup>3</sup> including that she is an "employee" within the meaning of FECA and that she filed her claim within the applicable time limitation.<sup>4</sup> The employee must also establish that she sustained an injury in the performance of duty as alleged and that her disability for work, if any, was causally related to the employment injury.<sup>5</sup>

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

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.<sup>7</sup>

### **ANALYSIS**

The case file supports that appellant tripped and fell at work on February 16, 2011. The Board finds that she did not establish her traumatic injury claim because the medical evidence

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<sup>3</sup> *J.P.*, 59 ECAB 178 (2007); *Joseph M. Whelan*, 20 ECAB 55, 57 (1968).

<sup>4</sup> *R.C.*, 59 ECAB 427 (2008).

<sup>5</sup> *Id.*; *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

<sup>6</sup> *T.H.*, 59 ECAB 388 (2008).

<sup>7</sup> *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 345 (1989).

did not sufficiently address how this accepted employment incident was causally related to a right knee condition.

A medical issue such as causal relationship can only be resolved through the submission of probative medical evidence from a physician.<sup>8</sup> The case file contains records cosigned by Dr. Henderson. In a February 24, 2011 note, Dr. Henderson opined that appellant was totally disabled from February 24 to March 10, 2011. Following an April 7, 2011 referral, he signed a physical therapist's May 24, 2011 report acknowledging that appellant injured her right knee in the performance of duty on February 16, 2011. While the Board has held that medical documents from a nonphysician may be considered probative if cosigned by a physician,<sup>9</sup> the cosigned records in this case were insufficient to establish causal relationship because they did not provide a medical explanation as to how the February 16, 2011 fall caused or contributed to the diagnosed right knee condition.<sup>10</sup> Dr. Kalman's May 13, 2011 MRI scan report was also of limited probative value on the issue of causal relationship because he did not offer an opinion regarding the cause of injury.<sup>11</sup> The remaining evidence from Ms. Hasting and various physical therapists does not constitute medical evidence because neither a physician's assistant nor a physical therapist is a "physician" as defined under FECA.<sup>12</sup> In the absence of rationalized medical opinion evidence, appellant failed to meet her burden.

The Board notes that appellant submitted new evidence on appeal. The Board lacks jurisdiction to review evidence for the first time on appeal.<sup>13</sup> However, appellant may submit new evidence or argument as part of a formal 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 a traumatic injury in the performance of duty on February 16, 2011.

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<sup>8</sup> See *Gloria J. McPherson*, 51 ECAB 441 (2000); *Charley V.B. Harley*, 2 ECAB 208, 211 (1949).

<sup>9</sup> See *Rosita F. Brown*, Docket No. 03-1076 (issued July 1, 2003); Federal (FECA) Procedure Manual, Part 3 -- Medical, *Overview*, Chapter 3.100.3(c) (March 2010).

<sup>10</sup> *Joan R. Donovan*, 54 ECAB 615, 621 (2003); *Ern Reynolds*, 45 ECAB 690, 696 (1994).

<sup>11</sup> *J.F.*, Docket No. 09-1061 (issued November 17, 2009); *S.E.*, Docket No. 08-2214 (issued May 6, 2009).

<sup>12</sup> 5 U.S.C. § 8101(2); *Allen C. Hundley*, 53 ECAB 551, 554 (2002) (physicians' assistants); *Jennifer L. Sharp*, 48 ECAB 209 (1996) (physical therapists).

<sup>13</sup> 20 C.F.R. § 501.2(c).

**ORDER**

**IT IS HEREBY ORDERED THAT** the July 25, 2011 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: June 1, 2012  
Washington, DC

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

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

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