

FACTUAL HISTORY

On August 18, 2011 appellant, then a 67-year-old consumer safety inspector, filed a traumatic injury claim alleging that on August 15, 2011 he injured his right knee when he slipped on a post chill stand. He did not stop working.

In support of his claim, appellant submitted a September 12, 2011 treatment note and procedure note from Dr. Kevin J. Collins, a treating physician, who noted physical findings and diagnosed sprains and strains of the leg and knee. Dr. Collins reported an injury date of August 15, 2011.

By correspondence dated September 15, 2011, OWCP informed appellant that the evidence of record was insufficient to support his claim. Appellant was advised as to the type of medical and factual evidence to submit and given 30 days to provide the requested information.

In response to OWCP, appellant submitted evidence including February 21 and August 17 and 21, 2011 treatment notes from Dr. Collins. In August 17 and 21, 2011 notes, Dr. Collins stated that appellant related hearing his right knee pop while stepping down from a stand at work on August 15, 2011. Physical findings include normal range of motion and tenderness at the patella area. An x-ray interpretation revealed tricompartmental osteoarthritis. Dr. Collins diagnosed knee and leg sprains and strains, patella chondromalacia and lower leg joint pain. The February 21, 2011 report indicates that appellant was receiving treatment from Dr. Collins for leg and knee sprains and strains.

By decision dated October 28, 2011, OWCP found the evidence established that the employment incident occurred as alleged, but denied appellant's claim on the grounds that there was no medical evidence explaining how the diagnosed condition was causally related to the August 15, 2011 employment incident.²

LEGAL PRECEDENT

An employee seeking benefits under FECA³ has the burden of establishing the essential elements of his claim, including the fact that the individual is an employee of the United States within the meaning of FECA; that the claim was filed within the applicable time limitation; that an injury was sustained while in the performance of duty as alleged and that any disability and/or specific condition for which compensation is claimed are causally related to the employment

² The Board notes that appellant submitted additional evidence with his appeal. However, the Board may only review evidence that was in the record at the time OWCP issued its final decision. *See* 20 C.F.R. § 501.2(c)(1); *M.B.*, Docket No. 09-176 (issued September 23, 2009); *J.T.*, 59 ECAB 293 (2008); *G.G.*, 58 ECAB 389 (2007); *Donald R. Gervasi*, 57 ECAB 281 (2005); *Rosemary A. Kayes*, 54 ECAB 373 (2003).

³ *Supra* note 1.

injury.⁴ These are the essential elements of each and every compensation claim regardless of whether the claim is predicated on a traumatic injury or an occupational disease.⁵

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.⁶ 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.⁷ 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.⁸

The claimant 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 to specific conditions of employment.⁹ An award of compensation may not be based on appellant's belief of causal relationship. Neither the mere fact that a disease or condition manifests itself during a period of employment nor the belief that the disease or condition was caused or aggravated by employment factors or incidents is sufficient to establish a causal relationship.¹⁰

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence.¹¹ 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.¹² 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.¹³

⁴ C.S., Docket No. 08-1585 (issued March 3, 2009); *Bonnie A. Contreras*, 57 ECAB 364 (2006).

⁵ S.P., 59 ECAB 184 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

⁶ B.F., Docket No. 09-60 (issued March 17, 2009); *Bonnie A. Contreras*, *supra* note 4.

⁷ D.B., 58 ECAB 464 (2007); *David Apgar*, 57 ECAB 137 (2005).

⁸ C.B., Docket No. 08-1583 (issued December 9, 2008); *D.G.*, 59 ECAB 734 (2008); *Bonnie A. Contreras*, *supra* note 4.

⁹ *Roma A. Mortenson-Kindschi*, 57 ECAB 418 (2006); *Katherine J. Friday*, 47 ECAB 591 (1996).

¹⁰ P.K., Docket No. 08-2551 (issued June 2, 2009); *Dennis M. Mascarenas*, 49 ECAB 215 (1997).

¹¹ Y.J., Docket No. 08-1167 (issued October 7, 2008); *A.D.*, 58 ECAB 149 (2006); *D'Wayne Avila*, 57 ECAB 642 (2006).

¹² J.J., Docket No. 09-27 (issued February 10, 2009); *Michael S. Mina*, 57 ECAB 379 (2006)

¹³ I.J., 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

ANALYSIS

OWCP accepted that the August 15, 2011 incident occurred as alleged. It denied appellant's claim on the grounds that there was insufficient medical evidence to support that the diagnosed medical condition was causally related to the August 15, 2011 employment incident. The Board finds that he did not submit sufficient medical evidence to support that he sustained a knee injury causally related to the August 15, 2011 employment incident.

On September 15, 2011 OWCP advised appellant of the type of medical evidence needed to establish his claim. Appellant did not submit a rationalized medical report from an attending physician addressing how the August 15, 2011 incident may have caused or aggravated his claimed right knee condition.

In support of his claim, appellant submitted treatment notes dated August 17 and 21 and September 12, 2011 from Dr. Collins noting the August 15, 2011 employment incident and diagnosing knee and leg sprains and strains, patella chondromalacia and lower leg joint pain. However, these reports offered no opinion which addresses how the August 15, 2011 incident caused his diagnosed conditions. 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.¹⁴ Thus, these treatment notes from Dr. Collins are insufficient to establish appellant's claim. Appellant also submitted a February 21, 2011 treatment note from Dr. Collins regarding treatment for knee conditions. However this report predates the August 15, 2011 employment incident and is not relevant to whether the accepted employment incident caused or contributed to appellant's right knee condition. The record contains no other medical evidence received prior to the issuance of OWCP's October 28, 2011 decision addressing the August 15, 2011 employment incident and a right knee condition.

The Board has held that the mere fact that a condition manifests itself during a period of employment does not raise an inference of causal relation.¹⁵ An award of compensation may not be based on surmise, conjecture, speculation or on the employee's own belief of causal relation.¹⁶ Causal relationships must be established by rationalized medical opinion evidence.¹⁷ As appellant has not submitted any rationalized medical evidence support his claim that he sustained an injury causally related to the August 15, 2011 employment incident, he has failed to meet his 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.

¹⁴ See *K.W.*, 59 ECAB 271 (2007); *Michael E. Smith*, 50 ECAB 313 (1999).

¹⁵ *E.J.*, Docket No. 09-1481 (issued February 19, 2010); *D.E.*, 58 ECAB 448 (2007); *Daniel O. Vasquez*, 57 ECAB 559 (2006).

¹⁶ *D.D.*, 57 ECAB 734 (2006).

¹⁷ *T.P.*, Docket No. 09-2102 (issued August 25, 2010); *Roy L. Humphrey*, 57 ECAB 238 (2005).

CONCLUSION

The Board finds that appellant had not met his burden of proof to establish that he sustained a knee injury in the performance of duty on August 15, 2011.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated October 28, 2011 is affirmed.

Issued: June 8, 2012
Washington, DC

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

Alec J. Koromilas, Judge
Employees' Compensation Appeals Board

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