

FACTUAL HISTORY

On March 3, 2011 appellant, then a 55-year-old correction supervisor, filed a Form CA-1 alleging that on February 22, 2011 he twisted his left knee attempting to restrain a combative inmate. A coworker confirmed appellant's statements on the claim form.

In a letter dated March 7, 2011, OWCP requested additional factual and medical evidence from appellant. Dr. Mengistu Yemane, a Board-certified internist, examined appellant on March 14, 2011 and discussed his prior right knee injury on October 15, 2010. He noted that appellant underwent an arthroscopy of his left knee on November 20, 2006. Appellant stated that he saw Dr. Anjum Iqbal, a Board-certified internist, on March 10, 2011 and that she requested a magnetic resonance imaging (MRI) scan. A nurse prescribed a knee brace for appellant's left knee on March 23, 2011.

OWCP noted that appellant had three other claims for left knee injury, February 13 and November 25, 2006 and August 13, 2009.²

By decision dated April 14, 2011, OWCP denied appellant's claim on the grounds that he failed to submit medical evidence providing a diagnosis of a left knee condition.

Appellant requested a review of the written record by an OWCP hearing representative on May 2, 2011 and submitted information regarding both knee claims. He sought treatment from the employing establishment medical clinic on February 22, 2011 and reported bruising and pain in his left knee. A nurse diagnosed a dark purple bruise to the left knee with pain and aching. Appellant submitted notes dated March 10 and 16, 2011 from Dr. Iqbal stating that appellant's left knee popped when walking and caused severe pain. Dr. Iqbal diagnosed pain in the left knee from trauma. Appellant submitted a nurse's note dated April 11, 2011. Dr. Mary Lloyd Ireland, a Board-certified orthopedic surgeon, completed a note on March 25, 2011 addressing appellant's knee conditions. She found exquisite tenderness to palpation of his medial joint line in the left knee with significant medial compartment arthritis on x-ray. Dr. Ireland diagnosed bilateral osteoarthritis of the knees.

By decision dated August 17, 2011, OWCP's hearing representative denied appellant's claim finding that he failed to submit sufficient medical evidence to establish a traumatic injury to his left knee on February 22, 2011.

LEGAL PRECEDENT

An employee seeking benefits under FECA³ has the burden of establishing the essential elements of his or her claim by the weight of the reliable, probative and substantial evidence, including the fact that the individual is an "employee of the United States" within the meaning of FECA and that the claim was timely filed within the applicable time limitation period of FECA,

² OWCP File Nos. are xxxxxx879, xxxxxx821 and xxxxxx465, respectively. OWCP further noted that it issued a schedule award for a 10 percent impairment of the left leg in File No. xxxxxx879.

³ 5 U.S.C. §§ 8101-8193.

that an injury was sustained in the performance of duty as alleged and that any disability or specific condition for which compensation is claimed is causally related to the employment injury.⁴ 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.⁵

OWCP defines a traumatic injury as, “[A] condition of the body caused by a specific event or incident, or 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.”⁶ 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. 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 a medical evidence, to establish that the employment incident caused a personal injury.⁸

When determining whether the implicated employment factors caused the claimant’s diagnosed condition, OWCP generally relies on the rationalized medical opinion of a physician.⁹ OWCP recognizes, however, that a case may be accepted without a medical report if: (1) the condition reported is a minor one that can be identified on visual inspection by a lay person (*e.g.*, burn, laceration, insect sting or animal bite); (2) the injury was witnessed or reported promptly and no dispute exists as to the fact of injury; and (3) no time was lost from work due to disability.¹⁰

ANALYSIS

Appellant filed a claim for a traumatic injury to his left knee on February 22, 2011. OWCP accepted that the employment incident occurred as alleged, but found that he failed to submit sufficient medical evidence to establish an injury as a result of this incident.

The Board notes that appellant’s claim falls into the category of cases that can be established without a physician’s report. His condition, identified by a nurse as a bruise on the left knee, can be identified on visual inspection. OWCP procedures recognize that a claim may

⁴ *Kathryn Haggerty*, 45 ECAB 383, 388 (1994); *Elaine Pendleton*, 41 ECAB 1143 (1989).

⁵ *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁶ 20 C.F.R. § 10.5(ee).

⁷ *John J. Carlone*, 41 ECAB 354 (1989).

⁸ *J.Z.*, 58 ECAB 529 (2007).

⁹ *A.S.*, 59 ECAB 246 (2007).

¹⁰ *Janice Guillemette*, 54 ECAB 780 (2003) (the employee was in an automobile accident when her mail truck hit a tree and the Board accepted a contusion [bruise] of her nose). *A.S. supra* note 9 (finding that a cut on the finger could be identified on visual inspection by a lay person.). *See also* Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805(3)(d) (July 2000).

be accepted without a medical report when the condition is a minor one which can be identified on visual inspection.¹¹ In this case, appellant has submitted a note from a nurse dated February 22, 2011, the date of the incident, which stated that he had a dark bruise on his left knee. The Board finds that appellant has established that he sustained a bruised left knee that day.

The Board finds that appellant has not submitted necessary medical evidence to establish any aggravation of his preexisting left knee condition. Dr. Yemane noted that appellant underwent an arthroscopy of his left knee on November 20, 2006. This report does not describe appellant's left knee condition on February 22, 2011 or discuss how the accepted bruise aggravated his preexisting left knee condition.

Appellant submitted notes from nurses prescribing a knee brace for his left knee on March 23, 2011 and a separate note dated April 11, 2011. A nurse is not a physician as defined under FECA and is not competent to render a medical opinion.¹² As the notes were not signed by a physician the notes have no probative value in establishing appellant's claim.¹³

In notes dated March 10 and 16, 2011, Dr. Iqbal stated that appellant experienced severe left knee pain and popping while walking. She diagnosed pain in the left knee from trauma. Given appellant's history of prior left knee injury and surgery, Dr. Iqbal's opinion is not sufficient to establish an aggravation of his left knee resulting from the February 22, 2011 employment injury.

On March 25, 2011 Dr. Ireland found exquisite tenderness to palpation of his medial joint line in the left knee with significant medial compartment arthritis on x-ray. She diagnosed bilateral osteoarthritis of the knees. Dr. Ireland did provide a history of injury on February 22, 2011, or explain how the injury caused or contributed to the diagnosed condition of osteoarthritis of the left knee. Without a detailed medical report describing the February 22, 2011 employment injury and explaining how this employment incident and accepted bruise resulted in a further diagnosed condition, appellant has not met his burden of proof in establishing any further left knee injury resulting from his accepted employment injury.

CONCLUSION

The Board finds that appellant sustained a bruise to his left knee in the performance of duty on February 22, 2011 as alleged.

¹¹ *Janice Guillemette*, supra note 10.

¹² *G.G.*, 58 ECAB 389 (2007).

¹³ *Merton J. Sills*, 39 ECAB 572 (1988).

ORDER

IT IS HEREBY ORDERED THAT the August 17, 2011 decision of the Office of Workers' Compensation Programs is set aside and remanded.

Issued: November 14, 2012
Washington, DC

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

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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