

FACTUAL HISTORY

On June 13, 2011 appellant, then a 58-year-old sales and services distribution associate, filed a traumatic injury claim (Form CA-1) alleging a contusion to the left knee in the performance of duties on April 11, 2011. She stated that her injury occurred as a result of a fall. Appellant did not stop work.

By letter dated June 13, 2011, appellant's supervisor stated that appellant reported her injury on April 12, 2011, telling him that she had fallen to the floor on her left knee and that it became swollen, but that it would resolve, but the next day she told her supervisor that it had not resolved.

In an undated attending physician's form report, Dr. Karai P. Balaji, a Board-certified internist, stated that appellant had ongoing knee pain. He checked a box indicating that the condition was caused or aggravated by employment activity, but did not provide an explanation in the space provided. In a June 15, 2011 duty status report, Dr. Balaji recommended a total work restriction from kneeling until June 22, 2011.

In a report dated July 21, 2011, Dr. Luke Loveys, a Board-certified orthopedic surgeon, stated his impression that appellant had left knee pain and that it was an ongoing work-related injury. Appellant stated that she was doing well and had no preexisting left knee symptoms when she sustained a fall on a hard surface at work. Upon examination, Dr. Loveys noted tenderness along the lateral joint line of her left knee and a range of motion from full extension to 100 degrees flexion with discomfort at the extremes. The x-rays of appellant's left knee revealed no acute fractures or significant joint space narrowing and mild degenerative changes with osteophyte formation along the lateral border of the patella. Dr. Loveys assessed appellant as having joint pain of the left leg. He recommended a further diagnostic workup with a magnetic resonance imaging (MRI) scan to rule out the possibility of a lateral meniscus tear.

In an attending physician's form report dated July 25, 2011, Dr. Loveys stated that appellant had left knee pain and that findings from x-rays showed mild degenerative changes. He checked a box indicating that the condition was caused or aggravated by employment activity, explaining that she fell on her knee at work.

In a report dated September 1, 2011, Dr. Loveys reviewed the results of an MRI scan, stating that there was no evidence for significant internal derangement, no meniscus tear or ligament tear and no fracture. He advised that appellant had joint pain and osteoarthritis of the left leg

In a report dated December 6, 2011, Dr. Loveys stated that there had been definite improvement in appellant's condition, although she did not feel she was back to baseline and continued to have difficulty kneeling for any length of time. Upon examination, he noted no effusion, erythema or warmth and no focal tenderness to palpitation of the knee. Dr. Loveys advised that appellant's knee was stable and had excellent strength, noting that she had a range of motion from full extension to 115 degrees flexion. He assessed appellant as having osteoarthritis and joint pain of the left leg.

In a report dated March 6, 2012, Dr. Loveys stated that appellant was doing well and had no specific concerns. Upon examination, he found no effusion, erythema or warmth but there was mild tenderness along the medial joint line. Dr. Loveys stated that appellant's ligamentous examination was stable and that she had a range of motion from full extension to 115 degrees flexion. He assessed her as having osteoarthritis and joint pain of the left leg.

On September 23, 2012 appellant filed a recurrence of disability claim stating that her knee pain continued from time to time after recurring on November 17, 2011, and that kneeling and bending were painful. She noted that her last two appointments with Dr. Loveys had been denied.

On April 11, 2013 OWCP requested additional factual and medical evidence from appellant. It noted that the evidence submitted was insufficient to establish that she sustained a traumatic injury in the performance of duty on April 11, 2011. On the same date, OWCP requested additional medical evidence from appellant to establish a recurrence of her medical condition on November 17, 2011.

On April 23, 2013 appellant responded to OWCP's inquiries relating to the incident of April 11, 2011. On that date she was holding onto a tray of letters and coming around a corner when her pant leg caught on a tub of mail. Appellant fell approximately three to four feet onto a concrete tile floor. Her left knee impacted the floor and took all her weight. Appellant did not file a claim until over two months after her injury because she was hoping that her condition would improve, but she notified her supervisor the next day. She noted that she was never notified that her claim had been closed and found out when her doctor's office told her that her last two visits had been denied.

As to the recurrence of her medical condition on November 17, 2011, appellant stated that her alleged injury was ongoing and she had not sustained any other injuries or illnesses, either on or off duty, since April 11, 2011. She noted that she had iced her knee after the incident and that she could not put pressure on it when kneeling. Appellant outlined the medical care she had received since April 11, 2011.

By decision dated May 13, 2013, OWCP denied appellant's claim. It accepted that the April 11, 2011 incident occurred as alleged but found that the medical evidence was not sufficient to establish that her left knee condition was causally related to the accepted incident. By decision also dated May 13, 2013, OWCP denied appellant's claim for a recurrence of her medical condition, finding that because her original claim for a traumatic injury had been denied, it could not consider a claim for recurrence.

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 filed within the applicable time limitation; that an injury was sustained while in the performance of duty as alleged and that any

³ 5 U.S.C. § 8101 *et seq.*

disability and/or specific condition for which compensation is claimed are 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 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 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, 366 (2006).

⁵ S.P., 59 ECAB 184, 188 (2007); *Joe D. Cameron*, 41 ECAB 153, 157 (1989).

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

⁷ D.B., 58 ECAB 464, 466 (2007); *David Apgar*, 57 ECAB 137, 140 (2005).

⁸ C.B., Docket No. 08-1583 (issued December 9, 2008); *D.G.*, 59 ECAB 734, 737 (2008); *Bonnie A. Contreras*, *supra* note 4 n.4.

⁹ *Roma A. Mortenson-Kindschi*, 57 ECAB 418, 428 n.37 (2006); *Katherine J. Friday*, 47 ECAB 591, 594 (1996).

¹⁰ P.K., Docket No. 08-2551 (issued June 2, 2009); *Dennis M. Mascarenas*, 49 ECAB 215, 218 (1997).

¹¹ Y.J., Docket No. 08-1167 (issued October 7, 2008); *A.D.*, 58 ECAB 149, 155-56 (2006); *D Wayne Avila*, 57 ECAB 642, 649 (2006).

¹² J.J., Docket No. 09-27 (issued February 10, 2009); *Michael S. Mina*, 57 ECAB 379, 384 (2006).

¹³ I.J., 59 ECAB 408, 415 (2008); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

ANALYSIS

Appellant alleged that she sustained a contusion to the left knee as a result of a fall onto concrete on April 11, 2011. OWCP found the evidence of record sufficient to establish that the incident occurred as alleged, but found that the evidence did not contain a rationalized opinion finding a causal relationship between her condition and the April 11, 2011 employment incident. The issue is whether appellant has established that her left knee condition was causally related to the April 11, 2011 employment incident. The Board finds that she has failed to meet her burden of proof.

In the undated attending physician's report, Dr. Balaji stated his impression that appellant had ongoing knee pain. He checked the box indicating that the condition was caused or aggravated by employment activity, but did not provide an explanation in the space provided.

In the report dated July 21, 2011, Dr. Loveys stated his impression that appellant had left knee pain and that it was an ongoing work-related injury due to a fall on a hard surface at work. Upon examination, he noted tenderness along the lateral joint line of appellant's left knee and a range of motion from full extension to 100 degrees flexion with discomfort at the extremes. Dr. Loveys found no acute fractures or significant joint space narrowing and mild degenerative changes with osteophyte formation along the lateral border of the patella. He assessed appellant as having joint pain of the left leg. Dr. Loveys recommended a further diagnostic workup with an MRI scan to rule out the possibility of a lateral meniscus tear. In his July 25, 2011 report, he again diagnosed left knee pain. Dr. Loveys stated that findings from x-rays showed mild degenerative changes. He checked the box indicating that the condition was caused or aggravated by employment activity, explaining that appellant fell on her knee at work.

The Board notes that pain is generally a description of a symptom and not considered a firm medical diagnosis.¹⁴ Thus, the assessments of left knee pain from Drs. Balaji and Loveys are descriptions of a symptom and not diagnoses that could support a claim for compensation. Dr. Balaji's reports and Dr. Lovey's reports before September 1, 2011 do not contain any diagnoses of appellant's condition.

Dr. Loveys later reviewed the results of the MRI scan and found no evidence or significant internal derangement, no meniscus tear or ligament tear and no fracture. He assessed appellant as having joint pain and osteoarthritis of the left leg. In his December 6, 2011 and March 6, 2012 report, Dr. Loveys found her knee stable with excellent strength, noting that she had a range of motion from full extension to 115 degrees flexion. He assessed appellant as having osteoarthritis and joint pain of the left leg.

Dr. Loveys diagnosed appellant with a condition other than "pain," that of osteoarthritis of the left leg, in reports dating from September 1, 2011 through March 6, 2012, but he did not offer an opinion as to the issue of whether the April 11, 2011 employment incident caused or aggravated her diagnosed condition. The Board has held that medical evidence that does not

¹⁴ *B.P.*, Docket No. 12-1345 (issued November 13, 2012); *C.F.*, Docket No. 08-1102 (issued October 10, 2008).

offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship.¹⁵

An award of compensation may not be based on surmise, conjecture or speculation. Neither the fact that appellant's conditions became apparent during a period of employment nor the belief that her condition was caused, precipitated or aggravated by her employment is sufficient to establish causal relationship.¹⁶ Causal relationship must be established by rationalized medical opinion evidence and appellant failed to submit such evidence.

OWCP advised appellant of the evidence required to establish her claim; however, she failed to submit such evidence. Consequently, the Board finds that she has not met her burden of proof to establish that her claimed left knee condition was causally related to the April 11, 2011 employment incident. As such, it is not necessary to consider whether appellant has sustained a recurrence of disability.¹⁷

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 establish that she sustained a left knee condition causally related to the accepted April 11, 2011 employment incident.

¹⁵ See *C.B.*, Docket No. 09-2027 (issued May 12, 2010); *S.E.*, Docket No. 08-2214 (issued May 6, 2009); *Ellen L. Noble*, 55 ECAB 530, 534 (2004).

¹⁶ See *D.U.*, Docket No. 10-144 (issued July 27, 2010); *D.I.*, 59 ECAB 158, 162 (2007); *Robert Broome*, 55 ECAB 339, 341 (2004).

¹⁷ The Board precedent contemplates that, in order for there to be a recurrence, there must be an accepted condition. See, e.g., *Ricky S. Storms*, 52 ECAB 349, 351-52 (2001) (the medical evidence must demonstrate that the claimed recurrence was caused, precipitated, accelerated or aggravated by the accepted injury). The fact that OWCP administratively allowed the payment of a limited amount of medical expenses, does not, by itself, constitute a formal acceptance of any particular condition or period of disability. See *Gary L. Whitmore*, 43 ECAB 441, 446 (1992) (where the Board found that payment of compensation by OWCP does not, in and of itself, constitute acceptance of a particular condition or disability in the absence of evidence from OWCP indicating that a particular condition or disability has been accepted as work related).

ORDER

IT IS HEREBY ORDERED THAT the decisions of the Office of Workers' Compensation Programs dated May 13, 2013 are affirmed.

Issued: December 12, 2013
Washington, DC

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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

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