



stepping out of a postal vehicle.<sup>3</sup> In support of her claim, appellant submitted a July 8, 2011 magnetic resonance imaging (MRI) scan diagnosing a complex left knee medial meniscus tear.

By correspondence dated October 4, 2011, OWCP informed appellant that the evidence of record was insufficient to support her claim. Appellant was advised to submit additional medical and factual evidence to support her claim and given 30 days to provide the information.

In response to OWCP's request, appellant submitted a claim for an occupational disease. In an accompanying statement, she noted that, prior to May 2011, "from time to time around 17 May 2011," she experienced severe pain and occasional left knee irritation when stepping from the postal vehicle in May 2011. Appellant also contended that prolonged standing while casing mail was a cause of the damage to her knee.

In a May 17, 2011 report, Dr. Jeffrey W. Webb, a treating Board-certified physician in sports medicine, noted that appellant was seen for bilateral knee problems, but particularly the left knee. He diagnosed mild left knee patellofemoral pain syndrome. Appellant related a history of pain for the past few months and that she could not recall any specific injury. She noted pain at the end of a cruise that she had just returned from. On physical examination, the left knee revealed mild effusion, no pain at the lateral or medial joint line, mild pain at the proximal patella tendon, negative McMurray's test and stable laxity.

In a June 29, 2011 report, Dr. Webb reported that appellant was seen for left knee pain. Appellant stated that, about a week prior, she felt significant knee pain while walking for 10 minutes in the mall. Dr. Webb diagnosed mild left knee osteoarthritis, possible left knee medial meniscus tear and left knee pain with patellofemoral pain. He noted obesity with normal gait, mild left knee effusion, moderate anteromedial joint line and medial patellar facet tenderness, mild pain with deep flexion, normal ligament stability and fair range of motion.

On July 13 and August 24, 2011 Dr. Webb diagnosed complex left knee medial meniscus tear and left knee mild medial compartment osteoarthritis. On physical examination, he noted a normal gait, mild left knee effusion, mild tenderness at the medial knee joint line and patella, no instability and normal range of motion. On August 24, 2011 Dr. Webb related that appellant continued to have left knee pain and "had two episodes of catching since her last visit."

By decision dated November 7, 2011, OWCP denied appellant's occupational disease claim finding that the medical evidence did not establish that her left knee condition was causally related to her employment.<sup>4</sup>

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<sup>3</sup> Appellant originally filed a traumatic injury claim form which OWCP converted into an occupational disease claim on November 2, 2011. OWCP also informed her by separate letter dated November 2, 2011 that it had deleted file number xxxxxx806 as it was found to be a duplicate of file number xxxxxx090, the current file. All contents from file number xxxxxx806 were moved to file number xxxxxx090.

<sup>4</sup> Appellant filed a traumatic injury claim, alleging that she tore her left medial meniscus on October 27, 2011. OWCP assigned file number xxxxxx162 and denied the claim on January 12, 2012. An OWCP hearing representative affirmed on August 6, 2012, which is the subject of a Board appeal under Docket No. 13-111.

On December 11 and 12, 2011 appellant requested an oral hearing before an OWCP hearing representative, which was held on March 20, 2012.

Appellant submitted an October 28, 2011 attending physician's report<sup>5</sup> that diagnosed left knee chronic pain and left knee meniscal tear. The explanation given under the history of the injury is illegible, except for noting a date of May 2011 and left knee. The "yes" box is checked on the question of whether the diagnosed condition was caused or aggravated by an employment activity. On December 5, 2011 an explanation was added by Dr. John I. Foster, III, a treating Board-certified orthopedic surgeon, who stated that a "near fall" caused the work injury. In a December 8, 2011 attending physician's form, Dr. Foster diagnosed left medial meniscal tear based on an MRI scan. Under history of the injury, he stated that appellant fell and twisted her left knee at work on October 27, 2011. The "yes" box is checked on the question of whether the diagnosed condition was caused or aggravated by an employment activity. Dr. Foster stated that the "near fall [was positive] causation to a work injury."

In a March 29, 2012 report, Dr. Foster diagnosed left medial meniscal tear which he attributed to appellant twisting her knee at work on October 27, 2011. He related that she informed him that she had no symptoms prior to an October 27, 2011 incident which occurred while she was delivering mail. In addition, Dr. Foster related that appellant's "[s]ymptoms remain moderate, constant and have been present since the date of injury and were not present before the date of injury." On physical examination he noted a full range of motion, no instability, normal motor and sensory examinations, left knee medial joint line tenderness and no instability. In an addendum, Dr. Foster stated that appellant had clarifications, which included that her first injury occurred on May 18, 2011. Appellant also related falling two more times since the October 27, 2011 injury.

By decision dated June 26, 2012, an OWCP hearing representative affirmed the November 7, 2011 denial of appellant's claim.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA<sup>6</sup> 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 disability and/or specific condition for which compensation is claimed are causally related to the employment injury.<sup>7</sup> 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.<sup>8</sup>

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<sup>5</sup> One of the physician's signatures on the form is illegible.

<sup>6</sup> 5 U.S.C. § 8101 *et seq.*

<sup>7</sup> *C.S.*, Docket No. 08-1585 (issued March 3, 2009); *Bonnie A. Contreras*, 57 ECAB 364 (2006).

<sup>8</sup> *S.P.*, 59 ECAB 184 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

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.<sup>9</sup>

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.<sup>10</sup> 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.<sup>11</sup>

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence.<sup>12</sup> 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.<sup>13</sup> 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.<sup>14</sup>

### ANALYSIS

Appellant filed a claim for a traumatic injury which OWCP adjudicated as an occupational disease claim as the factors appellant alleged occurred over more than one workday or shift. OWCP denied her claim finding insufficient medical evidence to support a causal relation between her left knee condition and her employment. The medical evidence of record diagnosed a left medial meniscal tear, mild left knee osteoarthritis and mild left knee patellofemoral pain syndrome. The Board finds that the medical evidence is insufficient to establish that the diagnosed conditions are causally related to appellant's work as a city carrier.

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<sup>9</sup> *D.U.*, Docket No. 10-144 (issued July 27, 2010); *R.H.*, 59 ECAB 382 (2008); *Roy L. Humphrey*, 57 ECAB 238 (2005); *Donald W. Wenzel*, 56 ECAB 390 (2005).

<sup>10</sup> *Roma A. Mortenson-Kindschi*, 57 ECAB 418 (2006); *Katherine J. Friday*, 47 ECAB 591 (1996).

<sup>11</sup> *P.K.*, Docket No. 08-2551 (issued June 2, 2009); *Dennis M. Mascarenas*, 49 ECAB 215 (1997).

<sup>12</sup> *Y.J.*, Docket No. 08-1167 (issued October 7, 2008); *A.D.*, 58 ECAB 149 (2006); *D'Wayne Avila*, 57 ECAB 642 (2006).

<sup>13</sup> *J.J.*, Docket No. 09-27 (issued February 10, 2009); *Michael S. Mina*, 57 ECAB 379 (2006).

<sup>14</sup> *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

Dr. Foster opined that appellant's left medial meniscal tear was employment related in a December 8, 2011 form report and a March 29, 2012 report. He checked "yes" to the form question of whether the diagnosed condition was caused or aggravated by an employment activity. Dr. Foster's basis for his conclusion was that a near fall was positive for causation of a work injury. In this case, appellant premised her claim on stepping from her postal vehicle and prolonged standing. There is no supporting medical rationale explaining this history. Medical form reports merely asserting causal relationship without adequate rationale on causal relationship are of diminished probative value and are insufficient to meet an employee's burden of proof.<sup>15</sup>

On March 29, 2012 Dr. Foster's concluded that appellant's injury was employment related due to the lack of symptoms prior to an October 27, 2011 employment incident and being symptomatic subsequent to her employment injury. The Board has held that an opinion that a condition is causally related because the employee was asymptomatic before the injury is insufficient, without sufficient rationale, to establish causal relationship.<sup>16</sup> The March 29, 2012 report from Dr. Foster is insufficient to support appellant's claim. He did not provide a full history of the employment activities alleged by appellant in this claim.

Dr. Webb provided physical findings and diagnosed mild left patellofemoral pain syndrome, mild left knee osteoarthritis, left knee pain and left medial meniscus tear. He did not address the issue of causal relationship in any of his reports. Dr. Webb noted that appellant felt significant left knee pain after walking in a mall for 10 minutes. He did not address the work factors of prolonged standing or stepping from a vehicle. 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.<sup>17</sup> The MRI scan and Dr. Webb's reports are insufficient to establish appellant's claim.

In a March 29, 2012 report, Dr. Foster provided physical findings and a diagnosis of left medial meniscus tear. He attributed the condition to appellant's employment incident of October 27, 2011 due to the lack of any symptoms prior to this incident which occurred while she was delivering mail. Again, the factors of appellant's work as alleged under this claim were not addressed.

By letter dated October 4, 2011, OWCP informed appellant of the medical and factual evidence required to support her claim. Appellant failed to provide a medical report adequately explaining how her condition was causally related to her employment. 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

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<sup>15</sup> *D.U.*, *supra* note 9; *Sedi L. Graham*, 57 ECAB 494 (2006).

<sup>16</sup> *T.M.*, Docket No. 08-975 (issued February 6, 2009); *Michael S. Mina*, *supra* note 13.

<sup>17</sup> *C.B.*, Docket No. 09-2027 (issued May 12, 2010); *K.W.*, 59 ECAB 271 (2007); *J.M.*, 58 ECAB 303 (2007); *Jaja K. Asaramo*, 55 ECAB 200 (2004).

causal relationship.<sup>18</sup> Such a relationship must be shown by rationalized medical opinion evidence.<sup>19</sup>

OWCP advised appellant of the evidence required to establish her claim; however, she failed to submit such evidence. Consequently, appellant has not met her burden of proof in establishing that her claimed left knee condition was causally related to employment factors.

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 a left knee injury causally related to factors of her federal employment.

### **ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated June 26, 2012 is affirmed.

Issued: May 28, 2013  
Washington, DC

Alec J. Koromilas, Alternate Judge  
Employees' Compensation Appeals Board

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

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

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<sup>18</sup> See *D.U.*, *supra* note 9; *D.I.*, 59 ECAB 158 (2007); *Robert Broome*, 55 ECAB 339 (2004); *Anna C. Leanza*, 48 ECAB 115 (1996).

<sup>19</sup> *Patricia J. Bolleter*, 40 ECAB 373 (1988).