

pain. In a May 14, 2012 letter, OWCP informed him that additional evidence was needed to establish his claim and afforded him 30 days to submit a report from a qualified physician explaining how a work event on May 3, 2012 caused or contributed to a diagnosed condition.

In a May 22, 2012 report, Dr. Jeffrey S. Zarin, a Board-certified orthopedic surgeon, stated that appellant was “lifting something heavy from a truck and had a twisting injury to his knee where he felt a pop” at work. On examination of the right knee, he observed focal point tenderness over the medial joint line and a positive McMurray test. Dr. Zarin diagnosed right knee medial injury and opined that the condition was work related.

A May 30, 2012 right knee magnetic resonance imaging (MRI) scan obtained by Dr. Richard H. Blair, a Board-certified diagnostic radiologist, exhibited tricompartmental chondromalacia most prominent in the patellofemoral joint and medial collateral ligament thickness indicative of an earlier, healed injury. A May 31, 2012 status report from Dr. Thad F. Schilling, a Board-certified internist, discharged appellant to full-time duty effective immediately.²

By decision dated June 19, 2012, OWCP denied appellant’s claim, finding the medical evidence insufficient to establish that the accepted May 3, 2012 employment incident caused or contributed to a right knee condition.

In a June 12, 2012 follow-up report, Dr. Zarin specified that appellant sustained a work-related injury on May 3, 2012. On examination of the right knee, he observed focal tenderness over the medial joint line and femoral condyle. Following a review of the May 30, 2012 MRI scan, Dr. Zarin diagnosed medial collateral ligament strain with subchondral contusion. He remarked, “Clearly, the patient had an acute injury on May 3[, 2012] that was likely related to his preexisting condition of arthritis in his knee.”

Appellant requested a telephonic hearing, which was held on September 19, 2012.³

On November 2, 2012 OWCP’s hearing representative affirmed the June 19, 2012 decision.

LEGAL PRECEDENT

An employee seeking compensation under FECA has the burden of establishing the essential elements of his or her claim by the weight of reliable, probative and substantial evidence,⁴ including that he or she is an “employee” within the meaning of FECA and that he or she filed his or her claim within the applicable time limitation.⁵ The employee must also

² Appellant also provided May 4, 2012 records from a nurse practitioner.

³ At the hearing, appellant essentially restated his account of the May 3, 2012 employment incident.

⁴ *J.P.*, 59 ECAB 178 (2007); *Joseph M. Whelan*, 20 ECAB 55, 57 (1968).

⁵ *R.C.*, 59 ECAB 427 (2008).

establish that he or she sustained an injury in the performance of duty as alleged and that his or her disability for work, if any, was causally related to the employment injury.⁶

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 he or she actually experienced the employment incident at the time, place and in the manner alleged. Second, the employee must submit medical evidence to establish that the employment incident caused a personal injury.⁷

Rationalized medical opinion evidence is generally required to establish causal relationship. 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.⁸

ANALYSIS

The Board finds that appellant did not establish that he sustained a traumatic injury while in the performance of duty on May 3, 2012. Although OWCP accepted that he was transporting a bulk mail container on that day, the medical evidence did not sufficiently demonstrate that this employment incident was causally related to a right knee condition.

In a May 22, 2012 report, Dr. Zarin advised that appellant was “lifting something heavy from a truck and had a twisting injury to his knee where he felt a pop” at work. He added in a June 12, 2012 report that the injury occurred on May 3, 2012. Following a physical examination and review of the medical file, Dr. Zarin diagnosed medial collateral ligament strain and concluded that appellant sustained an acute injury on May 3, 2012 that “was likely related to his preexisting condition of arthritis in his knee.” However, he did not pathophysiologically explain how transporting a bulk mail container on May 3, 2012 aggravated a right knee condition.⁹ The need for rationalized medical opinion evidence is particularly important because the case record confirmed a history of preexisting injury.

May 30 and 31, 2012 reports from Dr. Blair and Dr. Schilling offered diminished probative value on the issue of causal relationship because neither physician addressed whether a diagnosed right knee injury resulted from the May 3, 2012 employment incident.¹⁰ In the

⁶ *Id.*; *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

⁷ *T.H.*, 59 ECAB 388 (2008).

⁸ *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁹ *Joan R. Donovan*, 54 ECAB 615, 621 (2003); *Ern Reynolds*, 45 ECAB 690, 696 (1994).

¹⁰ *J.F.*, Docket No. 09-1061 (issued November 17, 2009); *S.E.*, Docket No. 08-2214 (issued May 6, 2009).

absence of rationalized medical opinion evidence, appellant failed to discharge his burden of proof.¹¹

Appellant contends on appeal that Dr. Zarin's June 12, 2012 report sufficiently established his traumatic injury claim. The Board has already addressed the deficiencies of the medical evidence.

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 he sustained a traumatic injury while in the performance of duty on May 3, 2012.

ORDER

IT IS HEREBY ORDERED THAT the November 2, 2012 decision of the Office of Workers' Compensation Programs be affirmed.

Issued: May 29, 2013
Washington, DC

Patricia Howard Fitzgerald, Judge
Employees' Compensation Appeals Board

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

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

¹¹ The Board points out that the May 4, 2012 records from a nurse practitioner did not constitute competent medical evidence because a nurse practitioner is not a "physician" as defined under FECA. 5 U.S.C. § 8101(2); *Paul Foster*, 56 ECAB 208 (2004). See also *Gloria J. McPherson*, 51 ECAB 441 (2000); *Charley V.B. Harley*, 2 ECAB 208, 211 (1949) (a medical issue such as causal relationship can only be resolved through the submission of probative medical evidence from a physician).