United States Department of Labor
Employees' Compensation Appeals Board

B.B., Appellant	)	
and	)	**Docket No. 14-176**
	)	**Issued: March 21, 2014**
U.S. POSTAL SERVICE, POST OFFICE, Minneapolis, MN, Employer	)	

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
RICHARD J. DASCHBACH, Chief Judge
PATRICIA HOWARD FITZGERALD, Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On October 28, 2013 appellant filed a timely appeal of an August 1, 2013 Office of Workers' Compensation Programs' (OWCP) merit decision denying her traumatic injury claim. Pursuant to the Federal Employees' Compensation Act[1] (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction to consider the merits of the case.

ISSUE

The issue is whether appellant has met her burden of proof in establishing that she sustained a left knee injury on August 25, 2012 in the performance of duty.

FACTUAL HISTORY

On August 28, 2012 appellant, then a 50-year-old mail carrier, filed a traumatic injury claim alleging that she twisted her left knee when walking on uneven grass while in the performance of duty on August 25, 2012.

[1] 5 U.S.C. § 8101 *et seq.*

On August 27, 2012 Dr. Philip C. Hoversten, a physician Board-certified in occupational medicine, noted appellant's history of injury and left medial knee pain. He diagnosed a unspecified injury of the knee, leg, ankle and foot. Dr. Margo H. Hutchison, a Board-certified family practitioner, examined appellant on September 4, 2012 and diagnosed knee pain as the result of twisting her left knee in the performance of duty. On September 21, 2012 she diagnosed medial knee pain. In a note dated October 16, 2012, Dr. Hutchison diagnosed knee pain and stated that she suspected patellofemoral syndrome or a small meniscus tear. Dr. Hoversten examined appellant on October 29, 2012 and diagnosed medial knee pain and chondromalacia of the left patella.

In a letter dated November 20, 2012, OWCP noted that appellant's claim had been administratively approved for a limited amount of medical expenses and that she now needed to provide additional factual and medical evidence in support of her claim. It allowed appellant 30 days to respond.

Dr. Hutchison completed a report dated November 14, 2012 and stated that a left knee magnetic resonance imaging (MRI) scan demonstrated mild to moderate patellar chondromalacia an effusion with a Baker's cyst. She noted that appellant twisted her left knee while lifting and walking at work. Appellant underwent an MRI scan of her left knee on October 24, 2012 which demonstrated trace joint effusion with a tiny Baker's cyst and mild to moderate patellar chondromalacia.

By decision dated January 2, 2013, OWCP denied appellant's claim finding that she had not established the factual component of her claim, that the injury occurred at the time, place and in the manner alleged. It further found that appellant did not submit the necessary medical opinion evidence to establish that a diagnosed medical condition was causally related to her work event.

Appellant requested an oral hearing on January 14, 2013 before an OWCP hearing representative. Dr. Paul Havel, a Board-certified orthopedic surgeon, completed a form report on October 16, 2012 and diagnosed knee pain, patellofemoral syndrome or meniscal tear. He stated that appellant twisted her knee while getting into her truck from the curb and indicated with a checkmark "yes" that the condition was caused or aggravated by an employment activity.

Appellant testified at the oral hearing on May 8, 2013. She stated that she sustained a left knee injury on August 25, 2012. Appellant stated that she was retrieving mail from the curbside of her truck and twisted her knee walking on lumpy grass.

Dr. Hutchison completed a note on May 14, 2013 and diagnosed medial knee pain and chondromalacia of the left patella. She indicated that appellant had a work-related injury. In a separate note dated May 14, 2013, Dr. Hutchison stated that appellant's injury occurred while at work on August 25, 2012 and that she twisted her knee and felt pain in her left medial knee. She stated, "My current medical opinion is that the twist of her left knee resulted in the left knee pain that she has continued to have."

By decision dated August 1, 2013 and finalized August 2, 2013, the hearing representative found that appellant had established that the incident occurred as alleged on

August 25, 2012 but that she failed to submit the necessary medical opinion evidence to establish a causal relationship between her August 25, 2012 employment incident and her diagnosed condition of chondromalacia patella.

LEGAL PRECEDENT

An employee seeking benefits under FECA[2] 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, 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.[3] 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.[4]

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."[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. 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.[6] 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.[7] A medical report is of limited probative value on a given medical question if it is unsupported by medical rationale.[8] Medical rationale includes a physician's well-reasoned opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment activity. The opinion of the physician must be based on a complete factual and medical background of the claim, 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 specific employment activity or factors identified by the claimant.[9]

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[2] 5 U.S.C. §§ 8101-8193.

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

[4] *Victor J. Woodhams*, 41 ECAB 345 (1989).

[5] 20 C.F.R. § 10.5(ee).

[6] *John J. Carlone*, 41 ECAB 354 (1989).

[7] *J.Z.*, 58 ECAB 529 (2007).

[8] *T.F.*, 58 ECAB 128 (2006).

[9] *A.D.*, 58 ECAB 149 (2006).

ANALYSIS

Appellant filed a traumatic injury claim alleging that she injured her left knee in the performance of duty on August 25, 2012. The hearing representative accepted that the injury occurred at the time, place and in the manner alleged. The hearing representative found that appellant had not submitted sufficient medical opinion evidence to establish a causal relationship between her diagnosed condition and her employment injury.

Appellant has submitted a series of reports from Dr. Hutchison who first examined appellant on September 4, 2012 and diagnosed knee pain as a result of twisting her left knee in the performance of duty. Dr. Hutchison continued to provide a diagnosis of knee pain through October 16, 2012. The Board has held that the mere diagnosis of "pain" does not constitute the basis for payment of compensation.[10] The Board has held that pain is a symptom and not a condition. In order to establish her traumatic injury claim, appellant must submit medical evidence explaining the causal relationship between her employment event on August 25, 2012 and medical condition such as chondromalacia patella.

Dr. Hutchison completed a note on May 14, 2013 and diagnosed medial knee pain and chondromalacia of the left patella and indicated that appellant had a work-related injury. In a separate note dated May 14, 2013, she stated that appellant's injury occurred while at work on August 25, 2012 and that she twisted her knee and felt pain in her left medial knee. Dr. Hutchison stated, "My current medical opinion is that the twist of her left knee resulted in the left knee pain that she has continued to have." While she supports a causal relationship between appellant's employment incident and her knee pain, she did not opine and explain how the employment incident of twisting her left knee caused or aggravated the diagnosed condition of chondromalacia of the left patella. Without medical opinion evidence relating the condition of chondromalacia of the patella rather than merely the symptom of medial knee pain to appellant's employment twisting incident on August 25, 2012 these reports are not sufficient to meet appellant's burden of proof.

Dr. Havel completed a form report on October 16, 2012 and diagnosed knee pain, patellofemoral syndrome or meniscal tear. He described appellant's employment incident of twisting her knee. Dr. Havel indicated with a checkmark "yes" that the conditions of knee pain, patellofemoral syndrome or meniscal tear were caused or aggravated by an employment activity. The Board has held that an opinion on causal relationship which consists only of a physician checking "yes" to a medical form report question on whether the claimant's condition was related to the history given is of little probative value. Without any explanation or rationale for the conclusion reached, such report is insufficient to establish causal relationship.[11] Dr. Havel did not provide a clear diagnosis. He diagnosed knee pain, which is a symptom not a condition, and suggested in the alternative patellofemoral syndrome or meniscal tear. Furthermore, he failed to provide a written opinion in support of his conclusion that appellant's condition was employment related. Without a clear diagnosis and supportive medical reasoning explaining why and how

[10] *Robert Broome*, 55 ECAB 339 (2004).

[11] *Lucrecia M. Nielson*, 41 ECAB 583, 594 (1991).

appellant's diagnosed condition resulted from her employment injury, this report is not sufficient to meet appellant's burden of proof.

CONCLUSION

The Board finds that appellant has not submitted sufficient medical opinion evidence to establish a causal relationship between her accepted August 25, 2012 employment incident and her diagnosed condition. Appellant has therefore failed to meet her burden of proof.

ORDER

IT IS HEREBY ORDERED THAT the August 1, 2013 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: March 21, 2014
Washington, DC

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

Patricia Howard Fitzgerald, Judge
Employees' Compensation Appeals Board

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