



Appellant first became aware of his condition and its relation to his employment on August 29, 2013. He advised that he notified the employing establishment as soon as he became aware of his condition.

Several disability status reports were submitted. In a September 19, 2013 disability status report, Dr. Samuel Gerber, Board-certified in orthopedic surgery and sports medicine, advised that appellant was scheduled to undergo surgery on September 27, 2013 and would be unable to work until his postoperation appointment.<sup>2</sup> In an April 24, 2014 disability status report, he advised that appellant's work restrictions included no walking and that he was only able to drive. Dr. Gerber also advised that appellant would undergo surgery on June 24, 2014. In October 10, November 17 and December 5, 2013, January 7, and February 20, 2014 disability status reports, he advised that appellant was unable to walk and climb stairs and that his work duties should include mostly driving.

In a May 22, 2014 statement, the employing establishment controverted appellant's claim arguing that appellant had not provided any medical documentation to support causal relationship.

In a May 22, 2014 statement, appellant advised that he had been employed by the employing establishment for the past 30 years. He noted that entering and exiting his postal vehicle, as well as walking down residential stairs, put strain on his knees, hips, and legs. Appellant stated that in August 2013 his knees began to give him a lot of pain and he was diagnosed with a right meniscus tear, for which he underwent surgery in September 2013. He claimed that his knee did not improve and his doctor recommended a total knee replacement which he was scheduled to undergo in June 2014.

In a May 29, 2014 report, Dr. Gerber advised that appellant had progressive arthritis from his work-related injury. He also advised that an April 24, 2014 x-ray showed medial compartment arthritis, moderate patellofemoral arthritis and genu varum deformity with sclerosis, spurring, joint subluxation, and a 10 degree flexion contracture of the knee. Dr. Gerber noted that he discussed knee replacement with appellant. He opined that appellant's work-related injury was the cause of his knee injury that has gone into progressive arthritis now requiring knee replacement surgery.

By letter dated July 7, 2014, OWCP requested that the employing establishment comment on the accuracy of the statements made by appellant with regard to his claim, and provide the description and physical requirements of his position.

By letter dated July 7, 2013, OWCP notified appellant that evidence was insufficient to establish his claim, advised him to submit a questionnaire to establish the factual component of his claim, and advised of the type of medical evidence needed to establish his claim.

In a July 10, 2014 statement, the employing establishment disagreed with appellant's assertion that he notified his supervisor that he had an illness in August 2013. It also advised

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<sup>2</sup> Photographs from the September 27, 2013 surgery were submitted to the record, but not the actual surgical report.

that his route consisted of 562 deliveries, which included 450 curbside deliveries from the vehicle and 112 dismounted deliveries where he was required to exit the vehicle.

In a July 21, 2014 statement, appellant reiterated that he provided all medical evidence to OWCP and advised that he did not engage in any other strenuous or repetitive activities outside of his federal employment.

In a July 24, 2014 report, Dr. Gerber stated that x-rays showed severe knee arthritis. He diagnosed knee arthritis and noted that appellant had a total knee replacement after conservative methods failed. Dr. Gerber advised that appellant was unable to do prolonged standing and walking.

By decision dated September 22, 2014, OWCP denied appellant's claim because although fact of injury and performance of duty was proven, medical evidence did not establish that he sustained a medical condition causally related to work events.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA has the burden to establish 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 timely filed within the applicable time limitation, that an injury was sustained in the performance of duty as alleged, and that any disabilities and/or specific conditions for which compensation is claimed are causally related to the employment injury.<sup>3</sup> 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.<sup>4</sup>

Whether an employee actually sustained an injury in the performance of duty begins with an analysis of whether fact of injury has been established. To establish an occupational disease claim, 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>5</sup>

Causal relationship is a medical issue and the evidence generally required to establish causal relationship is rationalized medical opinion evidence. 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.<sup>6</sup>

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<sup>3</sup> *Elaine Pendleton*, 40 ECAB 1143 (1989).

<sup>4</sup> *Victor J. Woodhams*, 41 ECAB 345 (1989).

<sup>5</sup> *R.H.*, 59 ECAB 382 (2008); *Ernest St. Pierre*, 51 ECAB 623 (2000).

<sup>6</sup> *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, *supra* note 4.

The weight of medical evidence is determined by its reliability, its probative value, its convincing quality, the care of analysis manifested and the medical rationale expressed in support of the physician's opinion.<sup>7</sup>

### ANALYSIS

Appellant claimed that he began experiencing knee pain as a result of entering and exiting his postal vehicle and climbing stairs. There is no dispute that he climbed stairs and entered and exited a postal vehicle as a part of his job. However, the medical evidence is insufficient to establish that a medical condition is causally related to the accepted work activities.

Dr. Gerber's May 29, 2014 report is the only medical evidence submitted addressing causal relationship. In his report, he advised that appellant had progressive arthritis from his work-related injury. Dr. Gerber opined that appellant's work-related injury was the cause of his knee condition. Although he opined that appellant's condition was work related, he does not provide any medical rationale explaining how appellant's specific work duties caused the diagnosed condition. The Board has held that a physician's opinion on causal relationship must address the specific factual and medical evidence of record and provide medical rationale explaining the relationship between the diagnosed condition and the established incident or factor of employment.<sup>8</sup> Dr. Gerber's report failed to do so; as a result, it is insufficient to discharge appellant's burden of proof. In his July 24, 2014 report, he diagnosed knee arthritis and noted that appellant had a total knee replacement after conservative methods failed. This report is also insufficient to discharge appellant's burden of proof because it does not address causal relationship. Appellant did not provide medical treatment records other than work status notes regarding his condition prior to his September 13, 2013 surgery.

Other medical evidence of record is insufficient to establish the claim as it does not contain a physician's opinion supporting that the work duties caused or aggravated appellant's right knee condition.<sup>9</sup>

The medical evidence does not establish appellant's claim. As noted, causal relationship is a medical question that must be established by probative medical opinion from a physician. The physician must accurately describe appellant's work duties and medically explain the pathophysiological process by which these duties would have caused or aggravated his

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<sup>7</sup> *James Mack*, 43 ECAB 321 (1991).

<sup>8</sup> *Lee R. Haywood*, 48 ECAB 145 (1996); *see also T.M.*, Docket No. 08-975 (issued February 6, 2009) (a medical report is of limited probative value on the issue of causal relationship if it contains a conclusion regarding causal relationship which is unsupported by medical rationale).

<sup>9</sup> *See S.E.*, Docket No. 08-2214 (issued May 6, 2009) (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).

condition.<sup>10</sup> Because appellant has not provided such medical opinion evidence in this case, he has failed to meet his burden of proof.

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.<sup>11</sup>

### **CONCLUSION**

The Board finds that appellant did not meet his burden of proof to establish that he sustained an occupational disease in the performance of duty.

### **ORDER**

**IT IS HEREBY ORDERED THAT** the September 22, 2014 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: April 24, 2015  
Washington, DC

Christopher J. Godfrey, Chief Judge  
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Deputy Chief Judge  
Employees' Compensation Appeals Board

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

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<sup>10</sup> *Solomon Polen*, 51 ECAB 341 (2000) (rationalized medical evidence must relate specific employment factors identified by the claimant to the claimant's condition, with stated reasons by a physician). *See also S.T.*, Docket No. 11-237 (issued September 9, 2011).

<sup>11</sup> The Board notes that appellant submitted new evidence on appeal. However, the Board lacks jurisdiction to review new evidence for the first time on appeal. *See* 20 C.F.R. § 501.2(c).