



injured in the performance of duty, as she had stated that she fell down on her way home several weeks beforehand. She noted that her knowledge of the facts about this injury did not agree with appellant's statements, as the injury could have been caused by the earlier fall. The employing establishment controverted continuation of pay.

By letter dated May 6, 2013, OWCP informed appellant of the evidence necessary to establish her claim. It noted that she had not submitted any medical evidence in her case. OWCP afforded appellant 30 days to submit additional evidence and to respond to its inquiries.

In a note dated April 15, 2013, Dr. David Pichkadze, a Board-certified internist, stated that appellant presented with right knee pain and difficulty walking. He advised her to keep her leg elevated and to work light duty. On the same date, Dr. Pichkadze wrote that appellant had a right knee injury with difficulty ambulating, and that she was unable to perform her duties. In a note dated April 17, 2013, he stated that appellant was still under his care for a knee injury, and that her date of return to work was uncertain.

On April 23, 2013 Dr. David Inslicht, Board-certified in internal medicine and physical medicine and rehabilitation, stated that appellant was tentatively diagnosed with sciatica resulting from a work-related injury on April 11, 2013. He noted that appellant was unable to return to work as a letter carrier at that time.

In a diagnostic report dated April 30, 2013, Dr. Inslicht examined the results of x-rays of appellant's right hip. He noted that appellant had a hip prosthesis, which appeared to be in adequate alignment. Dr. Inslicht further noted no acute displaced fractures or malalignment, but positive presence of degenerative changes of the right superior acetabulum and patchy sclerotic changes of the inferior pubic ramus, which could be postsurgical in nature. In another diagnostic report of the same date, he examined the results of an x-ray of appellant's right knee. Dr. Inslicht stated impressions of no acute fractures of malalignment and tricompartmental osteoarthritic changes, most severe in the patellofemoral joint.

In a note dated May 2, 2013, Dr. Pichkadze stated that appellant fell and was unable to walk. He noted that x-rays revealed tricompartmental osteoarthritis, and that she could perform only limited duty on the job until further notice.

On May 15, 2013 Dr. Pichkadze noted that appellant slipped and fell on April 11, 2013, which resulted in significant knee pain. He stated that appellant could return to work on May 21, 2013, with a work restriction of standing no more than four hours per day.

In an undated attending physician's report, Dr. Pichkadze diagnosed appellant with a traumatic injury to the right knee after a fall and osteoarthritis. He checked a box stating that he did not believe the condition was caused or aggravated by an employment activity, but listed the date of injury as April 11, 2013.

Appellant submitted physical therapy notes dated from April 24 through November 22, 2013.

In a statement dated May 14, 2013, appellant explained that on April 11, 2013 she was delivering mail to a residence when she slipped down three steps, hurting her knee. She stated

that she had reported her injury on April 11, 2013 to a supervisor and that she had not sustained any other injuries from April 11 to 19, 2013. Appellant noted that she had fallen prior to the date of injury, on or about March 19, 2013, but that this incident had resulted in no pain or reason to seek medical attention.

By decision dated June 7, 2013, OWCP denied appellant's claim for compensation. It found that she had not submitted sufficient evidence to establish that her right knee condition was caused or aggravated by an incident on April 11, 2013. OWCP accepted that appellant was a federal civilian employee who filed a timely claim; that the incident occurred; that a medical condition had been diagnosed; and that she was within the performance of duty.

By form letter received on April 3, 2014, appellant requested reconsideration of OWCP's June 7, 2013 decision.

In a report dated April 23, 2013, Dr. Inslicht stated that appellant fell on stairs while at work on April 11, 2013. He assessed appellant with acute right hip pain; acute knee pain; and right-sided sciatica. Dr. Inslicht noted that appellant refused to allow a measurement of her right hip due to anticipated pain.

On June 18, 2013 Dr. Inslicht noted that appellant had a prior history of a total hip replacement in 2008 and that she had significant osteoarthritis in her right knee. However, he stated that before falling on April 11, 2013 appellant was in the habit of taking brisk walks over a distance of two miles several times per week, and did not experience any pain in her right lower extremity before the fall. Dr. Inslicht noted that, since the fall, she was limping and had difficulty sleeping due to pain in her right thigh, knee, and calf. He stated, "Although the osteoarthritis was most likely present prior to the work-related injury of April 11, 2013, it was not causing any symptoms. In my medical opinion, it is the injury of April 11, 2013 which has exacerbated [appellant's] condition and is directly responsible for her pain and disability at this time." Dr. Inslicht submitted substantially the same report on July 30, 2013, adding that "A [computerized tomography] CT scan of the right knee showed a tear of the medial meniscus." He submitted substantially the same report again on March 11, 2014, adding that "An [magnetic resonance imaging] MRI [scan] of the right knee performed on November 7, 2013 demonstrated a full-thickness radial tear of the medial meniscus, in addition to osteoarthritis."

In a diagnostic report dated June 20, 2013, Dr. Pichkadze examined the results of a CT scan of appellant's right knee. He stated findings of tricompartmental osteoarthritis, most severe in the patellofemoral ligament; and a radial tear at the free edge of the body of the medial meniscus.

In a diagnostic report dated July 5, 2013, Dr. Michael Greene, a Board-certified radiologist, examined the results of an x-ray of appellant's lumbar spine. He stated impressions of degenerative spondylosis and facet arthropathy in the lumbar spine, most prominently inferiorly; and grade 1 spondylolisthesis of L5 on S1.

In a diagnostic report dated November 13, 2013, Dr. Pichkadze examined the results of an MRI scan study of appellant's right knee. He stated an impression of prominent tricompartmental osteoarthritis throughout the right knee with little remaining cartilage; joint

effusion; a full-thickness radial tear at the posterior horn and root junction of the medial meniscus; a grade 1 sprain of the medial collateral ligament; a previous injury to the proximal origin of the posterior cruciate ligament near the femur; and a subcutaneous edema overlying the anterior patellar tendon.

On March 26, 2014 Dr. Pichkadze stated that before falling on April 11, 2013 appellant was able to walk about two miles a few times per week, and did not have pain in the right knee and leg before the fall. He noted that, since she fell, she was limping and had difficulty walking due to pain in her right knee. Dr. Pichkadze stated, “In my opinion, injury of April 11, 2013 is directly responsible for [appellant’s] pain and disability.”

By decision dated June 30, 2014, OWCP reviewed the merits of appellant’s claim and denied modification of its decision dated June 7, 2013. It found that Dr. Inslicht’s report of July 30, 2013 was not sufficient to establish a causal relationship between appellant’s condition and the incident of April 11, 2013 because it diagnosed her with a medial meniscus tear, but failed to provide MRI scan findings to support this diagnosis. OWCP noted, “Meniscal tears are generally diagnosed based on MRI scan findings but there is no indication that you underwent an MRI scan.” OWCP further noted that the remainder of Dr. Inslicht’s reports did not address the issue of causal relationship, and that the reports of physical therapists did not constitute probative medical evidence.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA<sup>2</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>3</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>4</sup>

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.<sup>5</sup> 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.<sup>6</sup> Second, the

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<sup>2</sup> *Supra* note 1.

<sup>3</sup> *C.S.*, Docket No. 08-1585 (issued March 3, 2009); *Bonnie A. Contreras*, 57 ECAB 364, 366 (2006).

<sup>4</sup> *S.P.*, 59 ECAB 184, 188 (2007); *Joe D. Cameron*, 41 ECAB 153, 157 (1989).

<sup>5</sup> *B.F.*, Docket No. 09-60 (issued March 17, 2009); *Bonnie A. Contreras*, *supra* note 3.

<sup>6</sup> *D.B.*, 58 ECAB 464, 466 (2007); *David Apgar*, 57 ECAB 137, 140 (2005).

employee must submit sufficient evidence, generally only in the form of medical evidence, to establish that the employment incident caused a personal injury.<sup>7</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>8</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>9</sup>

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence.<sup>10</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 compensable employment factors.<sup>11</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>12</sup>

### ANALYSIS

OWCP accepted the April 11, 2013 incident involving a slip on steps while delivering a package. The Board finds, however, that the medical evidence submitted by appellant is insufficient to establish that this incident caused a medical condition.

On June 18, 2013 Dr. Inslicht noted that appellant had a prior history of a total hip replacement in 2008 and that she had significant osteoarthritis in her right knee. However, he stated that before falling on April 11, 2013 appellant was in the habit of taking brisk walks over a distance of two miles several times per week, and did not experience any pain in her right lower extremity before the fall. Dr. Inslicht noted that, since the fall, she was limping and had difficulty sleeping due to pain in her right thigh, knee, and calf. He stated, "Although the osteoarthritis was most likely present prior to the work-related injury of April 11, 2013, it was not causing any symptoms. In my medical opinion, it is the injury of April 11, 2013 which has exacerbated [appellant's] condition and is directly responsible for her pain and disability at this

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<sup>7</sup> *C.B.*, Docket No. 08-1583 (issued December 9, 2008); *D.G.*, 59 ECAB 734, 737 (2008); *Bonnie A. Contreras*, *supra* note 3.

<sup>8</sup> *Roma A. Mortenson-Kindschi*, 57 ECAB 418, 428 n.37 (2006); *Katherine J. Friday*, 47 ECAB 591, 594 (1996).

<sup>9</sup> *P.K.*, Docket No. 08-2551 (issued June 2, 2009); *Dennis M. Mascarenas*, 49 ECAB 215, 218 (1997).

<sup>10</sup> *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).

<sup>11</sup> *J.J.*, Docket No. 09-27 (issued February 10, 2009); *Michael S. Mina*, 57 ECAB 379, 384 (2006).

<sup>12</sup> *I.J.*, 59 ECAB 408, 415 (2008); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

time.” Dr. Inslicht submitted substantially the same report on July 30, 2013, adding that “A CT scan of the right knee showed a tear of the medial meniscus.” He submitted substantially the same report again on March 11, 2014, adding that “An MRI [scan] of the right knee performed on November 7, 2013 demonstrated a full-thickness radial tear of the medial meniscus, in addition to osteoarthritis.”

The Board notes that OWCP incorrectly stated that there was no indication that appellant underwent an MRI scan diagnosing her with a meniscal tear. In a diagnostic report dated November 13, 2013, Dr. Pichkadze examined the results of an MRI scan study of appellant’s right knee. He stated an impression of a full-thickness radial tear at the posterior horn and root junction of the medial meniscus. As such, appellant’s meniscal tear was diagnosed by MRI scan.

However, Dr. Inslicht’s June 18 and July 30, 2013; and March 11, 2014 reports do not contain a medically sound explanation of how the April 11, 2013 event caused or aggravated appellant’s diagnosed conditions, nor do they contain a sufficient explanation of why he ruled out the possibility of appellant’s preexisting conditions contributing to or causing her condition without the intervention of a work-related event. Instead, his reports contain his opinion on causal relationship without a well-rationalized explanation of how he arrived at that conclusion. Medical evidence submitted to support a claim for compensation should reflect a correct history, and the physician should offer a medically sound explanation of how the claimed work event caused or aggravated the claimed condition.<sup>13</sup> Lacking such an explanation, these reports are not sufficient to establish a causal relationship between the event of April 11, 2013 and appellant’s diagnosed conditions. As such, OWCP’s incorrect statement regarding her diagnosis of a meniscal tear constituted harmless error, because the report of Dr. Inslicht was insufficient to establish causal relationship regardless of how the meniscal tear was diagnosed.

Appellant submitted various diagnostic reports and notes from Drs. Inslicht and Pichkadze which did not contain a clear statement of opinion as to the causation of her conditions. 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>14</sup> Hence, these reports are not sufficient to establish appellant’s claim. Appellant also submitted physical therapy notes dating from April 24 through November 22, 2013, none of which were countersigned by a physician. Reports from physical therapists do not constitute probative medical evidence.<sup>15</sup> As such, these physical therapy notes do not establish appellant’s claim for compensation.

As appellant has not submitted any rationalized medical evidence to support her allegation that she sustained an injury causally related to an April 11, 2013 employment incident, she has not met her burden of proof to establish a claim.

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<sup>13</sup> *D.D.*, Docket No. 13-1517 (issued April 14, 2014).

<sup>14</sup> *See C.B.*, Docket No. 09-2027 (issued May 12, 2010); *S.E.*, Docket No. 08-2214 (issued May 6, 2009).

<sup>15</sup> *See Vickey C. Randall*, 51 ECAB 357, 360 n.4 (2000).

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 has not met her burden of proof to establish a traumatic injury in the performance of duty on April 11, 2013.

**ORDER**

**IT IS HEREBY ORDERED THAT** the June 30, 2014 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: April 20, 2015  
Washington, DC

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

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

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