



Automated Postal Center (APC) machine (hereinafter referred to as post-con). She notified her supervisor of her injury on June 8, 2013.<sup>2</sup>

By letter dated June 14, 2013, OWCP informed appellant that the evidence of record was insufficient to support her claim. Appellant was advised of the medical and factual evidence needed and was directed to submit it within 30 days.

In an undated narrative statement, appellant reported that she previously felt a sharp pain in her left leg on April 20, 2013 when she was pulling a basket of mail to the post-con. The following day she experienced pain when walking up and down the stairs for work. Appellant reported that she was on vacation from April 25 to May 12, 2013 and did not experience discomfort other than walking up and down stairs. On May 21, 2013 she pulled three post-cons to unload trays of mail and felt a sharp pain in her left leg on the third pull. Appellant sought treatment on May 23, 2013.

In a June 19, 2013 medical report, Dr. Brian Donoghue, Board-certified in emergency medicine, reported that appellant complained of leg pain from pulling large mail bins in May 2013. He later clarified that he misunderstood her and that the incident occurred in April 2013. Dr. Donoghue diagnosed chronic leg pain.

A July 19, 2013 duty status report (Form CA-17) from Dr. Stephen Lang, a Board-certified orthopedic surgeon, noted left knee swelling and pain. He diagnosed left knee sprain, meniscus, and synovitis as a result of pulling two to three post-cons on May 21, 2013. Dr. Lang provided appellant with work restrictions.

By letter dated July 23, 2013, the employing establishment controverted the claim.

OWCP denied appellant's claim on July 25, 2013, finding that the evidence did not establish that the incident occurred as alleged. It noted that there were inconsistencies in the date of injury as her statement and medical report indicated an injury on April 20, 2013. OWCP further noted that the medical evidence failed to establish a firm medical diagnosis. It noted that a diagnosis of "pain" is a symptom and not a diagnosed medical condition.

On August 9, 2013 appellant requested review of the written record before the Branch of Hearings and Review.

A hearing was held on January 22, 2014. Counsel for appellant argued that she was alleging an occupational disease claim (Form CA-2) because her leg pain initially occurred on April 21, 2013. He noted that she was incorrectly provided a CA-1 form and chose the May 21, 2013 date of injury because she recalled feeling pain on that date. Counsel further contended that appellant's left leg pain developed from April to May 2013 and that OWCP should develop the claim as an occupational disease injury. At the hearing, appellant testified that she had worked for the employing establishment for the past 15 years. She described her employment duties which entailed processing magazines and oversized mail, setting up post-cons, loading

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<sup>2</sup> The employing establishment issued a properly completed (Form CA-16), authorization for examination, dated June 13, 2013, which authorized appellant to seek medical treatment related to the May 21, 2013 injury. The description of injury was reported as injury to the left leg from pulling two to three post-cons to the delivery machine.

post-cons with packs of mail, dropping packs of mail and pulling packs into the post-con. Appellant reported that on April 20, 2013 she had issues climbing stairs and also experienced problems the following day. She went on vacation shortly thereafter and her condition had improved. On May 21, 2013 appellant felt a sharp pain in her left leg after the third pull of the post-con. She first sought medical treatment on May 23, 2013 and described her treatment history. Appellant argued that her supervisor provided her with the incorrect CA-1 form and she was unaware that she could file an occupational disease claim. The record was held open for 30 days.

In a June 14, 2013 diagnostic report, Dr. John D. Reeder, a Board-certified diagnostic radiologist, reported that a magnetic resonance imaging (MRI) scan of the left knee revealed moderate posterior medial meniscal degeneration with radial tear, subchondral osseous stress reaction, large knee joint effusion, and high grade patellar chondromalacia.

In medical reports dated June 11 to September 2, 2013, Dr. Lang reported that appellant initially sought treatment with another physician on May 23, 2013 due to complaints of left leg pain. He noted that she had been symptomatic for about two months and complained of left knee and leg pain. Appellant believed that her symptoms started on April 21, 2013 when she was going up and down stairs for work. Her employment also required her to push and pull material. Appellant's symptoms improved when she was on vacation, but after returning to work on May 15, 2013, her pain increased. Dr. Lang reviewed diagnostic testing and provided findings on physical examination. He initially diagnosed left knee synovitis, mild degenerative arthritis, possible meniscus tear, patellofemoral left knee pain syndrome, subchondral osseous stress reaction medial tibial plateau, and unspecified derangement of medial meniscus. In a June 20, 2013 report, Dr. Lang noted that appellant's employment activities included rotating back and forth to lift and move heavy material, which he speculated could have either created or aggravated her symptoms. He stated that he was not obtaining a history of any one specific incident that caused her left knee problem. Dr. Lang further stated, "I cannot deny the fact that [appellant's] initial job duties holding heavy material, carrying material, or rotating may be associated with the onset of her symptoms."

Subsequently, in an August 26, 2013 report, Dr. Lang provided the additional diagnoses of low back strain/degenerative changes. He reported that appellant should limit kneeling, squatting, and twisting and avoid lifting more than 10 pounds in any repetitive fashion, as well as avoid rotating, or twisting while carrying material. Dr. Lang reported that the restrictions were made to limit stressful activity and abnormal forces to the knee which could aggravate appellant's symptoms and conditions. He further explained that rotation and twisting of the knee could create more meniscus strain and tear and that repetitive and sustained squatting places more pressure on the kneecap and articular surfaces of the medial and lateral joint. In a September 2, 2014 report, Dr. Lang opined that appellant's original employment activities likely contributed to or aggravated her present left knee and low back injuries.

Physical therapy notes dated July 18 to September 18, 2013 were also submitted.

By decision dated May 2, 2014, the Branch of Hearings and Review denied appellant's claim. The hearing representative determined that based upon the record and after listening to appellant's testimony the incident alleged by the claimant occurred. Having reversed the earlier OWCP decision on this point, she found that the evidence failed to establish that her left knee

injury was caused by the accepted May 21, 2013 employment incident. The hearing representative noted that OWCP properly adjudicated the claim as a traumatic injury.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA has the burden of proof 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 filed within the applicable time limitation; that an injury was sustained while 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.<sup>3</sup> These are the essential elements of every compensation claim regardless of whether the claim is predicated on a traumatic injury or an occupational disease.<sup>4</sup>

In order to determine whether an employee actually sustained an injury in the performance of duty, OWCP begins with an analysis of whether fact of injury has been established. Generally, fact of injury consists of two components which must be considered in conjunction with one another. The first component to be established is that the employee actually experienced the employment incident which is alleged to have occurred.<sup>5</sup> The second component is whether the employment incident caused a personal injury and generally can be established only by medical evidence.

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 of function of the body affected.<sup>6</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. 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>7</sup> Second, the employee must submit sufficient evidence, general only in the form of medical evidence, to establish that the employment incident caused a personal injury.<sup>8</sup>

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>

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<sup>3</sup> *Gary J. Watling*, 52 ECAB 278 (2001); *Elaine Pendleton*, 40 ECAB 1143, 1154 (1989).

<sup>4</sup> *Michael E. Smith*, 50 ECAB 313 (1999).

<sup>5</sup> *Elaine Pendleton*, *supra* note 3.

<sup>6</sup> 20 C.F.R. § 10.5(ee).

<sup>7</sup> *John J. Carlone*, 41 ECAB 354 (1989).

<sup>8</sup> *J.Z.*, 58 ECAB 529 (2007).

<sup>9</sup> *See Roy L. Humphrey*, 57 ECAB 238, 241 (2005); *Ruby I. Fish*, 46 ECAB 276, 279 (1994).

To establish a causal relationship between the condition, as well as any attendant disability claimed and the employment event or incident, the employee must submit rationalized medical opinion evidence based on a complete factual and medical background, supporting such a causal relationship.<sup>10</sup> The opinion of the physician must be based on a complete factual and medical background of the claimant, 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. This medical opinion must include an accurate history of the employee's employment injury and must explain how the condition is related to the injury. 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>11</sup>

### ANALYSIS

As appellant is alleging separate incidents, rather than a cumulative effect of employment activities, the Board finds that OWCP properly developed her claim as a traumatic injury.<sup>12</sup> OWCP accepted that the May 21, 2013 employment incident occurred as alleged. The issue is whether appellant established that the accepted incident caused a left knee injury. The Board finds that she did not submit sufficient medical evidence to support that her left knee injury was causally related to the May 21, 2013 employment incident.

In medical reports dated June 11 to September 2, 2013, Dr. Lang reported that appellant's left knee symptoms initially began on April 21, 2013 when she was climbing stairs, that her symptoms improved when she went on vacation, but increased once she resumed work on May 15, 2013. While the date of injury was noted as May 21, 2013, he stated that there was no history of any one specific incident that caused her left knee problem. Dr. Lang further stated, "I cannot deny the fact that [appellant's] initial job duties holding heavy material, carrying material or rotating may be associated with the onset of her symptoms." He diagnosed left knee synovitis, mild degenerative arthritis, possible meniscus tear, patellofemoral left knee pain syndrome, subchondral osseous stress reaction medial tibial plateau, unspecified derangement of medial meniscus, and back strain. Dr. Lang further opined that appellant's original employment activities likely contributed to or aggravated her present left knee and low back condition.

The Board finds that the opinion of Dr. Lang is not sufficiently rationalized. Dr. Lang provided a limited description of appellant's employment duties, noting rotating back and forth to lift and move heavy material. His statement that her initial job duties of holding heavy material, carrying material, or rotating could be associated with the onset of her symptoms is

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<sup>10</sup> See 20 C.F.R. § 10.110(a); *John M. Tornello*, 35 ECAB 234 (1983).

<sup>11</sup> *James Mack*, 43 ECAB 321 (1991).

<sup>12</sup> *Richard D. Wray*, 45 ECAB 758 (issued July 8, 1994). If the actual benefits claimed by the claimant cannot be determined from review of the form, OWCP should develop the claim based upon the claim form filed and direct questions to the claimant to determine the type of benefits claimed. Based upon the response to the development letter, it should make a determination as to whether the correct claim was established and, if not, OWCP should convert the claim to the proper type of claim and notify the claimant and employing establishment (and any representative, if applicable) of the conversion. Federal (FECA) Procedure Manual, Part 2 -- Claims, *Development of Claims*, Chapter 2.800.3(c)(2)(b) (June 2011). *C.f. S.N.*, Docket No. 12-1814 (issued March 11, 2013).

highly speculative.<sup>13</sup> Dr. Lang failed to address each condition specifically with an opinion on how the May 21, 2013 employment pushing/pulling incident would have caused or aggravated each of the diagnoses provided. Moreover, his statement on causation fails to provide a sufficient explanation as to the mechanism of injury pertaining to this traumatic injury claim, namely, how pulling post-cons would cause or aggravate appellant's multiple knee injuries.<sup>14</sup>

Dr. Lang's July 19, 2013 CA-17 form is the only report which identifies the May 21, 2013 employment incident as pulling two to three post-cons. While he noted a May 21, 2013 date of injury, it appears that he is attributing appellant's left knee conditions to an occupational injury produced by her work environment over a period longer than a single workday or shift rather than an injury from a single occurrence within a single workday as alleged by her in this claim.<sup>15</sup> Thus, Dr. Lang's opinion pertaining to her work-related duties as the cause of her injuries does not provide support for the traumatic injury claim.<sup>16</sup>

The remaining medical evidence is also insufficient to establish her traumatic injury claim. While Dr. Reeder's June 14, 2013 diagnostic report provided findings pertaining to the left knee, his report is of limited probative value as he offers no opinion on the cause of her injury.<sup>17</sup> Dr. Donoghue's June 19, 2013 report provided only a diagnosis of chronic leg pain. The Board has held that pain is a description of a symptom rather than a clear diagnosis of the medical condition.<sup>18</sup> It is not possible to establish the cause of a medical condition if the physician only refers to pain and not a specific diagnosis.<sup>19</sup> The physical therapy notes dated July 18 to September 18, 2013 are also insufficient to establish appellant's claim as they were not signed by a physician.<sup>20</sup>

Appellant claims that her injury was produced from her work environment over a cumulative period longer than a single workday or shift. However, the factual evidence is

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<sup>13</sup> *M.R.*, Docket No. 14-11 (issued August 27, 2014).

<sup>14</sup> *S.W.*, Docket 08-2538 (issued May 21, 2009). *See L.M.*, Docket No. 14-973 (issued August 25, 2014); *R.G.*, Docket No. 14-113 (issued April 25, 2014); *K.M.*, Docket No. 13-1459 (issued December 5, 2013); *A.J.*, Docket No. 12-548 (issued November 16, 2012).

<sup>15</sup> A traumatic injury means a condition of the body caused by a specific event or incident, or series of events or incidents, within a single workday or shift. 20 C.F.R. § 10.5(ee). An occupational disease is defined as a condition produced by the work environment over a period longer than a single workday or shift. 20 C.F.R. § 10.5(q).

<sup>16</sup> *S.R.*, Docket No. 12-1098 (issued September 19, 2012).

<sup>17</sup> *C.B.*, Docket No. 09-2027 (issued May 12, 2010); *S.E.*, Docket No. 08-2214 (issued May 6, 2009).

<sup>18</sup> *C.F.*, Docket No. 08-1102 (issued October 10, 2008).

<sup>19</sup> *T.G.*, Docket No. 13-76 (issued March 22, 2013).

<sup>20</sup> 5 U.S.C. § 8102(2) of FECA provides as follows: (2) physician includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, and osteopathic practitioners within the scope of their practice as defined by State law. FECA provides that the term "physician" includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, and osteopathic practitioners within the scope of their practice as defined by State law. *See also Roy L. Humphrey, supra* note 9 at 238 (2005).

insufficient to support an occupational disease claim (Form CA-2). OWCP correctly evaluated the facts presented and handled the claim as a traumatic injury.<sup>21</sup>

Appellant may submit additional evidence, together with a written request for reconsideration, to OWCP within one year of the Board's merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.606 and 10.607.<sup>22</sup>

**CONCLUSION**

The Board finds that appellant did not meet her burden of proof to establish that her left leg injury was causally related to the accepted May 21, 2013 employment incident, as alleged.

**ORDER**

**IT IS HEREBY ORDERED THAT** the May 2, 2014 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: January 2, 2015  
Washington, DC

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

Patricia Howard Fitzgerald, Judge  
Employees' Compensation Appeals Board

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

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<sup>21</sup> *Supra* note 12.

<sup>22</sup> The record contains a CA-16 form signed by the employing establishment official on June 13, 2013. When the employing establishment properly executes a CA-16 form, which authorizes medical treatment as a result of an employee's claim for an employment-related injury, the CA-16 form creates a contractual obligation, which does not involve the employee directly, to pay for the cost of the examination or treatment regardless of the action taken on the claim. The period for which treatment is authorized by a CA-16 form is limited to 60 days from the date of issuance, unless terminated earlier by OWCP. *See* 20 C.F.R. § 10.300(c); *Tracy P. Spillane*, 54 ECAB 608 (2003). The record is silent as to whether OWCP paid for the cost of appellant's examination or treatment for the period noted on the form.