

FACTUAL HISTORY

This case has been before the Board previously. The facts as set forth in the Board's prior decision are hereby incorporated by reference.² The relevant facts are set forth below.

On October 4, 2011 appellant, then a 29-year-old letter carrier, filed an occupational disease claim wherein he alleged that, on March 15, 2011, while performing his federal duties, he felt a pop inside his right knee and that every time he took a step he felt discomfort. By decision dated January 17, 2012, OWCP denied appellant's claim for failure to establish that the event occurred as alleged. On July 2, 2012 an OWCP hearing representative found that, although appellant's claim was filed for an occupational disease, he actually was claiming a traumatic injury that occurred on March 15, 2011. She found that appellant established that the employment incident occurred as alleged, but denied her claim as she found that the medical evidence did not establish a diagnosed condition causally related to the accepted incident. On January 7, 2013 OWCP denied modification of its prior decisions.

Appellant appealed to the Board. On August 22, 2013 the Board affirmed the January 7, 2013 decision, finding that appellant had not established an employment-related injury to his right knee on March 15, 2011, as alleged.³

On August 14, 2014 appellant, through counsel, requested reconsideration before OWCP. With his reconsideration request, appellant submitted additional medical reports by Dr. Charles DeMarco, a Board-certified orthopedic surgeon. In an April 19, 2012 report, Dr. DeMarco stated that appellant, on June 15, 2011, was walking and delivering mail when he sustained a twisting injury to his right knee and felt a pop. He noted that, since that time, appellant has had pain and dysfunction in the right knee, located over the anterior and anteromedial aspects of the right knee. Dr. DeMarco noted that appellant denied any prior injury. He then concluded that this employment-related accident was causally related to his work-related accident on March 15, 2011. Dr. DeMarco assessed appellant with torn meniscus, anterior cruciate ligament laxity (ACL) in the right knee. In a July 19, 2012 report, he again noted that appellant felt a pop in his right knee while working on June 15, 2011, but that March 15, 2011 was the date of the accident. Dr. Demarco noted that appellant continued to have significant pain and dysfunction in the right knee. In addition to these two reports, appellant submitted Dr. DeMarco's April 10, 2012 addendum to his April 3, 2012 report, a report that was already in evidence.

Appellant also resubmitted a report from a September 7, 2011 x-ray of appellant's right knee and a December 23, 2011 right lower extremity magnetic resonance imaging (MRI) scan.

By decision dated February 11, 2015, OWCP reviewed appellant's case on the merits, but denied modification of the prior decisions.

² Docket No. 13-860 (issued August 22, 2013).

³ *Id.*

LEGAL PRECEDENT

An employee seeking benefits under FECA 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 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 and/or specific condition for which compensation is claimed are causally related to the employment injury. 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

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 or exposure, which is alleged to have occurred.⁵ In order to meet his or her burden of proof to establish the fact that he or she sustained an injury in the performance of duty, an employee must submit sufficient evidence to establish that he or she actually experienced the employment injury or exposure at the time, place, and in the manner alleged.⁶

The second component is whether the employment incident caused a personal injury and generally can be established only by medical evidence.⁷ The medical evidence required to establish causal relationship is usually rationalized medical evidence. Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. 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.⁸

ANALYSIS

The Board finds that appellant has not established a right knee injury causally related to the accepted March 15, 2011 employment incident.

The Board notes that the September 7, 2011 x-ray report of the right knee, the December 23, 2011 MRI scan of the right lower extremity, and Dr. DeMarco's April 10, 2012

⁴ *Jussara L. Arcanjo*, 55 ECAB 281, 283 (2004).

⁵ See Federal (FECA) Procedure Manual, Part 2 -- Claims, *Fact of Injury*, Chapter 2.803.2(a) (August 2012).

⁶ *Linda S. Jackson*, 49 ECAB 486 (1998).

⁷ *John J. Carlone*, 41 ECAB 354 (1989); *Horace Langhorne*, 29 ECAB 820 (1978).

⁸ *Judith A. Peot*, 46 ECAB 1036 (1995); *Ruby I. Fish*, 46 ECAB 276 (1994).

addendum to his April 3, 2012 report were all previously submitted and considered by OWCP and the Board. It is well established that evidence that repeats or duplicates evidence previously of record does not constitute a basis for reopening a case.⁹

However, appellant did submit medical reports with his request for reconsideration, *i.e.*, the April 19 and July 19, 2012 reports by Dr. DeMarco. These reports are substantially similar to prior reports submitted by Dr. DeMarco. Neither of these reports constitute rationalized medical opinion evidence establishing that appellant's accepted employment incident of March 15, 2011 resulted in appellant's medical conditions. Dr. DeMarco describes the employment incident in his April 19 and July 19, 2012 reports. Furthermore, in his April 19, 2012 report, he indicated that this was an employment-related accident, causally related the March 15, 2011 employment incident. However, Dr. DeMarco did not provide any medical explanation as to how this incident caused appellant's torn meniscus and ACL laxity of the right knee. The Board further notes that these opinions indicate some confusion as to the correct date of the employment incident, noting the dates of incident as both March 15 and June 15, 2011.

Causal relationship must be based on rationalized medical opinion evidence.¹⁰ As appellant did not submit a rationalized medical opinion supporting that he sustained an illness or an injury causally related to the accepted March 15, 2011 employment incident, he did not meet his burden of proof to establish an employment-related traumatic injury.

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 failed to establish that he sustained an employment-related injury to his right knee on March 15, 2011, as alleged.

⁹ See *J.P.*, 58 ECAB 289 (2007); *D'Wayne Avila*, 57 ECAB 642 (2006).

¹⁰ *M.E.*, Docket No. 14-1064 (issued September 29, 2014). *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 *G.G.*, Docket No 15-234 (issued April 9, 2015).

ORDER

IT IS HEREBY ORDERED THAT the February 11, 2015 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: July 22, 2015
Washington, DC

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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

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