

On appeal, appellant describes her symptoms, medical treatment, and work duties that she believed caused her claimed injury in response to OWCP's request for additional information.

FACTUAL HISTORY

On January 7, 2015 appellant, then a 57-year-old mail handler equipment operator, filed a traumatic injury claim alleging that on December 19, 2014 she strained both knees at work. She claimed that driving a tow vehicle put pressure on her knees.

In a January 8, 2015 letter, the employing establishment controverted the claim, contending that the claim likely appeared to be an occupational disease claim based on appellant's description of injury. It noted that no medical evidence was submitted with the claim.

By letter dated January 14, 2015, OWCP advised appellant of the deficiencies in her claim and requested that she submit factual and medical evidence. Appellant was afforded 30 days to submit the requested evidence. OWCP also requested that the employing establishment submit medical evidence if she was treated at its medical facility.

In medical reports dated January 8, 2015, Dr. Cynthia A. Kline-Purviance, an attending physician Board-certified in emergency medicine, obtained a history that on December 19, 2014 appellant was working as a mail handler and, after stepping on pedals while using a tow vehicle, she developed a limp. She was unable to continue to perform overtime work using the tow vehicle, but performed work in another area. On her way home, appellant had nerve pain from the back of her calf to her thigh. The pressure point around her knees was painful. Dr. Kline-Purviance noted that appellant complained of left leg pain from repeatedly pushing on pedals of the tow vehicle at work "over course of some days." She provided a history of her medical treatment, family, and social background. Dr. Kline-Purviance reported findings on examination and diagnosed left thigh sprain, left knee and leg sprain and strain, and cumulative trauma from repetitive motion. She advised that her examination findings and diagnoses were consistent with the injury reported by appellant. Dr. Kline-Purviance concluded that the reported injury more likely than not caused the current symptoms and findings. In reports dated January 13 and 21, and February 4, 2015, she reiterated that her diagnoses of left thigh sprain, left knee and leg sprain and strain, and cumulative trauma from repetitive motion. Dr. Kline-Purviance diagnosed bilateral knee degenerative joint disease. She released appellant to return to light-duty work with restrictions on each examination day.

Reports dated January 13 to 21, 2015 from appellant's physical therapist, Marsha Funk-Myers, addressed the treatment of her left knee sprain and strain.

An unsigned and undated duty status report noted appellant's usual physical work requirements.

In a February 19, 2015 decision, OWCP denied appellant's traumatic injury claim, finding that she failed to submit any factual evidence to establish that the December 19, 2014

incident occurred as alleged. It noted that she had not responded to the request for additional factual information.

LEGAL PRECEDENT

An employee seeking benefits under FECA³ has the burden of proof to establish the essential elements of his or her claim by the weight of the reliable, probative, and substantial evidence⁴ including that he or she sustained an injury in the performance of duty and that any specific condition or disability for work for which she claims compensation is causally related to that employment injury.⁵

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it first must be determined whether fact of injury has been established.⁶ There are two components involved in establishing the fact of injury. First, the employee must submit sufficient evidence to establish that she actually experienced the employment incident at the time, place, and in the manner alleged.⁷

The second component is whether the employment incident caused a personal injury and generally can be established only by medical evidence.⁸ The evidence required to establish causal relationship is rationalized medical opinion evidence, based upon complete factual and medical background, showing a causal relationship between the claimed condition and the identified factors.⁹ The belief of the claimant that a condition was caused or aggravated by the employment is insufficient to establish a causal relationship.¹⁰

ANALYSIS

The Board finds that appellant did not meet her burden of proof to establish that she sustained bilateral knee injuries on December 19, 2014 while in the performance of duty.

Appellant did not submit a sufficiently detailed description of the employment incident or respond to the questions sent to her by OWCP. She alleged that she strained both knees as a result of stepping on pedals while driving a tow vehicle on December 19, 2014. By letter dated January 14, 2015, OWCP informed appellant of the deficiencies of her claim and the need to

³ 5 U.S.C. §§ 8101-8193.

⁴ *J.P.*, 59 ECAB 178 (2007); *Joseph M. Whelan*, 20 ECAB 55, 58 (1968).

⁵ *G.T.*, 59 ECAB 447 (2008); *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

⁶ *S.P.*, 59 ECAB 184 (2007); *Alvin V. Gadd*, 57 ECAB 172 (2005).

⁷ *Bonnie A. Contreras*, 57 ECAB 364 (2006); *Edward C. Lawrence*, 19 ECAB 442 (1968).

⁸ *John J. Carlone*, 41 ECAB 354 (1989); see 5 U.S.C. § 8101(5) (injury defined); 20 C.F.R. §§ 10.5(ee), 10.5(q) (traumatic injury and occupational disease defined, respectively).

⁹ *Lourdes Harris*, 45 ECAB 545 (1994); see *Walter D. Morehead*, 31 ECAB 188 (1979).

¹⁰ *Kathryn Haggerty*, 45 ECAB 383, 389 (1994).

submit additional information regarding the alleged incident and medical evidence in support of her claim. Appellant did not timely submit the requested factual evidence. The need for factual evidence is especially important since it is unclear whether her claim should be treated as a traumatic or occupational disease claim, as noted by OWCP. In reports dated January 8, 2015, Dr. Kline-Purviance provided a contradictory history of injury as she initially reported that on December 19, 2014 appellant developed a limp after stepping on pedals while using a tow vehicle and subsequently reported her claim that she had left leg pain from repeatedly pushing on pedals of a tow vehicle “over course of some days.”

A traumatic injury refers to injury caused by a specific event or incident or series of incidents occurring within a single workday or work shift whereas an occupational disease refers to an injury produced by employment factors which occur or are present over a period longer than a single workday or work shift.¹¹ The Board finds that appellant has not established that the December 19, 2014 incident occurred at work, as alleged.¹² As such, it is not necessary to address the medical evidence.¹³

On appeal, appellant described her symptoms, medical treatment, and work duties that she believed caused her claimed injury, as a response to OWCP’s earlier request for additional information. However, as the Board’s review is limited to evidence in the case record at the time OWCP made its decision over which the Board has jurisdiction, the Board cannot review evidence submitted for the first time on appeal.¹⁴

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 meet her burden of proof to establish bilateral knee injuries on December 19, 2014 while in the performance of duty.

¹¹ 20 C.F.R. § 10.5(ee), (q); *B.B.*, Docket No. 13-256 (issued August 13, 2013).

¹² *T.M.*, Docket No. 13-1997 (issued February 11, 2014).

¹³ *Alvin V. Gadd*, *supra* note 6.

¹⁴ *See supra* note 2.

ORDER

IT IS HEREBY ORDERED THAT the February 19, 2015 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: July 23, 2015
Washington, DC

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

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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