



to the accepted March 16, 2010 employment incident.<sup>2</sup> The findings and facts as set forth in the prior decision are hereby incorporated by reference. The relevant facts are set forth.

On March 18, 2010 appellant, then a 58-year-old mail handler, filed a traumatic injury claim (Form CA-1) alleging that on March 16, 2010 he sustained a back strain and meniscus sprain moving equipment on a scale. He stopped work on March 17, 2010. The employing establishment controverted the claim.

In support of his claim, appellant submitted medical reports dated March 16 to April 15, 2010.

By decision dated April 29, 2010, OWCP denied appellant's claim finding that the evidence did not establish that the incident occurred as alleged.

On May 4, 2010 appellant requested review of the written record before the Branch of Hearings and Review.

In narrative statements dated May 4 to August 30, 2010, appellant stated that he was at work on March 16, 2010 and after performing the job of moving racks which caused some back discomfort, he had to weigh a hamper which appeared to be overweight. He attempted to move the hamper on to the scale but one of the wheels was flat. Appellant continued to push the hamper until he finally got it on the scale, causing his back to hurt. Once he got the hamper onto the scale, he felt a burning sensation in his knee.

In support of his claim, appellant submitted medical reports dated April 3 to July 13, 2010. In a June 2, 2010 operative report, Dr. Arthur J. Bowman, a Board-certified orthopedic surgeon, reported that appellant had internal derangement of the right knee and that a magnetic resonance imaging (MRI) scan suggested a torn medial meniscus. Apparently, appellant injured his knee at work and the knee felt unstable. He underwent arthroscopy and debridement of the medial femoral condyle without complication.

By decision dated December 16, 2010, an OWCP hearing representative affirmed the April 29, 2010 OWCP decision finding that the evidence failed to establish that the incident occurred as alleged or to provide sufficient medical evidence of a diagnosed condition causally related to his employment.

By letter dated November 21, 2011, appellant, through counsel, requested reconsideration of the December 16, 2010 OWCP decision. In support of his claim, he resubmitted medical evidence previously of record along with two new medical reports from Dr. Bowman.

In a January 7, 2011 report, Dr. Bowman noted that appellant was under his care and had no reported problem with his knee prior to the March 2010 injury.

In an October 6, 2011 medical report, Dr. Bowman noted that appellant had arthroscopic surgery of the right knee several months ago. Appellant informed Dr. Bowman that he had no

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<sup>2</sup> Docket No.12-1844 (issued April 1, 2013).

problems with his knee until he sustained a fall in March 2010. Dr. Bowman noted that the “assumption has been made that is when his knee problem occurred.” He noted that appellant was referred to him after he sought emergency room and physical therapy treatment.

By decision dated July 31, 2012, OWCP affirmed the December 16, 2010 decision finding that the evidence of record failed to establish that the incident occurred as alleged.

On August 29, 2012 appellant sought review before the Board.

As previously noted, in a decision dated April 1, 2013, the Board affirmed the July 31, 2012 OWCP decision, as modified, finding that appellant failed to establish that his diagnosed conditions were causally related to the accepted March 16, 2010 employment incident.<sup>3</sup> The Board found that the evidence of record was sufficient to establish that the March 16, 2010 incident occurred as alleged and the medical evidence established a firm medical diagnosis of back sprain, right knee torn meniscus, aggravation of lumbar disc disease, and right knee sprain. The Board found that the medical evidence of record failed to establish that the diagnosed conditions were causally related to the accepted March 16, 2010 employment incident.

By letter dated July 30, 2013 appellant, through counsel, requested reconsideration. In support of his claim, he resubmitted medical evidence previously of record together with two new medical reports from Dr. Bowman.

In a May 25, 2010 medical report, Dr. Bowman reported that appellant was referred to him after he hurt his right knee at work when he was pushing or pulling an object and almost slipped and fell. He provided findings on physical examination and noted review of an MRI scan suggested a torn medial meniscus. Dr. Bowman noted that appellant had a history of left shoulder surgery for rotator cuff tear and multilevel degenerative lumbar disc disease for which he had been treated.

In a June 10, 2010 report, Dr. Bowman noted that appellant’s arthroscopic debridement of the right knee one week prior revealed chondromalacia of the medial femoral condyle. He opined that appellant’s right knee injury was work related. Appellant informed Dr. Bowman that he twisted his knee at work and had no prior symptoms or injury to the knee. Dr. Bowman noted that the physical findings at the time of the trauma were consistent with trauma. However, the findings did not suggest the type of trauma or the date that the trauma occurred. Dr. Bowman concluded that the findings were consistent with appellant’s statements.

By decision dated March 9, 2015, OWCP affirmed the April 1, 2013 decision finding that the evidence of record failed to establish that appellant’s diagnosed conditions were causally related to the accepted March 16, 2010 employment incident.

### **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

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<sup>3</sup> *Supra* note 2.

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 are causally related to the employment injury.<sup>4</sup> These are the essential elements of each and every compensation claim regardless of whether the claim is predicated on a traumatic injury or occupational disease.<sup>5</sup>

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>6</sup> The opinion of the physician must be based on 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>7</sup>

### ANALYSIS

Appellant established that the March 16, 2010 employment incident occurred as alleged. The issue is whether the accepted incident caused his diagnosed lumbar and right knee conditions. The Board finds that appellant did not submit sufficient medical evidence to establish that his lumbar and right knee conditions are causally related to the March 16, 2010 employment incident.<sup>8</sup>

In its April 1, 2013 decision, the Board held that appellant failed to establish causal relationship between the diagnosed conditions and the March 16, 2010 employment incident. With respect to the findings made in the Board’s April 1, 2013 decision, those matters are *res judicata* absent any further review by OWCP under section 8128 of FECA.<sup>9</sup>

Following OWCP’s July 31, 2012 decision, the only new medical reports submitted in support of appellant’s reconsideration request were Dr. Bowman’s May 25 and June 10, 2010 reports. In his May 25, 2010 report, Dr. Bowman reported that appellant hurt his right knee at work when he was pushing or pulling an object and almost slipped and fell. He noted that appellant’s MRI scan suggested torn medial meniscus. In the June 10, 2010 report, Dr. Bowman noted that appellant underwent an arthroscopic debridement of the right knee which revealed chondromalacia. Appellant informed Dr. Bowman that he twisted his knee at work and had

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<sup>4</sup> Gary J. Watling, 52 ECAB 278 (2001); Elaine Pendleton, 40 ECAB 1143, 1154 (1989).

<sup>5</sup> Michael E. Smith, 50 ECAB 313 (1999).

<sup>6</sup> See 20 C.F.R. § 10.110(a); John M. Tornello, 35 ECAB 234 (1983).

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

<sup>8</sup> See Robert Broome, 55 ECAB 339 (2004).

<sup>9</sup> See Robert G. Burns, 57 ECAB 657 (2006).

experienced no prior symptoms or injury. Dr. Bowman opined that appellant's right knee injury was work related.

The Board finds that the medical reports of Dr. Bowman failed to provide an accurate history of the March 16, 2010 employment incident. Dr. Bowman's May 25, 2010 report stated that appellant hurt his right knee at work when he was pushing or pulling an object and almost slipped and fell. The reports fail to identify the object appellant was trying to move or suggest how much the object weighed. Moreover, appellant has stated that his lumbar and right knee injury occurred when he was pushing a hamper filled with mail onto a scale. At no time did he indicate that he almost slipped and fell as recorded in Dr. Bowman's report. Dr. Bowman's June 10, 2010 report failed to explain these discrepancies because he provided no detail pertaining to how appellant twisted his knee at work.

In an October 6, 2011 medical report, Dr. Bowman found that appellant had experienced no problems with his knee until he fell in March 2010. He has provided inconsistent accounts of the employment incident which differ from the statements made by appellant. The Board has held that a physician must provide a narrative description of the identified employment incident and a reasoned opinion on whether the employment incident described caused or contributed to the diagnosed medical condition.<sup>10</sup>

The Board further notes that Dr. Bowman's opinion on causal relationship is highly speculative and does not establish causal relationship. In his June 10, 2010 postoperative report, Dr. Bowman diagnosed right knee chondromalacia. He opined that appellant's right knee injury was work related, noting that appellant had no prior symptoms or injury. The Board has held that an opinion that a condition is causally related because the employee was asymptomatic before the injury is insufficient, without adequate rationale, to establish causal relationship.<sup>11</sup> Dr. Bowman went on to state that physical findings at the time of the incident were consistent with trauma but also noted in the same report that the findings did not suggest the type or the date of that trauma.<sup>12</sup> His May 25, 2010 report is also insufficient to establish appellant's claim as he provides no opinion on causal relationship.<sup>13</sup>

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> The opinion of a physician supporting causal relationship must rest on a complete factual and medical background supported by affirmative evidence, address the specific factual and medical evidence of record, and provide medical rationale explaining the relationship between the diagnosed condition and

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<sup>10</sup> *John W. Montoya*, 54 ECAB 306 (2003).

<sup>11</sup> *T.M.*, Docket No. 08-975 (issued February 6, 2009); *Michael S. Mina*, 57 ECAB 379 (2006).

<sup>12</sup> *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>13</sup> *Franklin D. Haislah*, 52 ECAB 457 (2001); *Jimmie H. Duckett*, 52 ECAB 332 (2001) (medical reports not containing rationale on causal relationship are entitled to little probative value).

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

the established incident or factor of employment.<sup>15</sup> As Dr. Bowman failed to provide a rationalized and detailed discussion of appellant's medical history, the employment incident, and cause of injury, his reports are insufficient to meet appellant's burden of proof.<sup>16</sup>

On appeal counsel argues that OWCP's March 9, 2015 decision is contrary to fact and law. However, the Board finds that the weight of the medical evidence does not establish that appellant sustained a lumbar and right knee injury causally related to the accepted March 16, 2010 employment incident.<sup>17</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.

### **CONCLUSION**

The Board finds that appellant did not meet his burden of proof to establish that his lumbar and right knee injury is causally related to the accepted March 16, 2010 employment incident.

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<sup>15</sup> See *Lee R. Haywood*, 48 ECAB 145 (1996).

<sup>16</sup> *Supra* note 12.

<sup>17</sup> *J.M.*, Docket No. 15-1174 (issued August 18, 2015).

**ORDER**

**IT IS HEREBY ORDERED THAT** the March 9, 2015 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: October 23, 2015  
Washington, DC

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

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

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