

FACTUAL HISTORY

On January 28, 2015 appellant, a 44-year-old letter carrier, filed an occupational disease claim (Form CA-2) for benefits, alleging that she developed a left knee condition causally related to employment factors of walking, climbing up and down stairs, and standing while casing mail. She noted that she first became aware of her condition and that it was caused or aggravated by her employment on September 18, 2014. Appellant did not stop work. In a supplemental statement, also dated January 28, 2015, she noted that she had sustained a previous left knee injury on October 9, 2002, which was diagnosed as left knee lateral ligament strain.

The record indicates that OWCP accepted that appellant sustained a traumatic injury to her left knee on October 19, 2002,³ but that an August 2011 occupational disease claim in OWCP File No. xxxxxx542 was denied.

On February 11, 2015 OWCP advised appellant that it required factual and medical evidence to determine whether she was eligible for compensation benefits. It asked her to submit a comprehensive report from a treating physician describing her diagnosed condition, and an opinion as to whether her claimed condition was causally related to her federal employment. OWCP requested that appellant submit this evidence within 30 days.

In a March 5, 2015 report, Dr. Robert M. Fumich, a Board-certified orthopedic surgeon and appellant's treating physician, provided a summary of treatment notes which he had compiled on a monthly basis from October 2014 to March 2015. He advised that appellant had been experiencing left knee pain since 2002, when she injured her left knee at work. Dr. Fumich noted that she underwent left knee surgery in December 2011, but continued to be symptomatic with pain in the patellofemoral joint and lateral joint line. He noted that on examination appellant had patellofemoral clicking and crunching, with lateral tenderness and that she underwent x-ray tests which showed varus with decreased medial joint space and some patellofemoral arthritic change. Dr. Fumich informed her that she might require knee replacement surgery. In his notes dated December 16, 2014, January 20, February 17, and March 5, 2015 he advised that appellant was still experiencing continuing left knee pain and symptoms and was awaiting approval for left knee arthroscopy.

In a second March 5, 2015 narrative report, Dr. Fumich noted that appellant had sustained a left knee injury in October 2002 when she stepped backward off of stairs while delivering mail; a dog approached her and she turned and twisted, injuring her left knee. Following this injury appellant returned to limited duty for three years. She experienced recurrent pain and in December 2011 had an arthroscopic procedure. Dr. Fumich related that, after the surgery, appellant continued to have left knee problems. He noted that he first treated her on October 7, 2014 at which time she had patellofemoral clicking and crunching with lateral joint tenderness, some varus, and prolapse instability to valgus. Dr. Fumich advised that appellant continued carrying the mail on a full route, on full duty. He opined that she had a continued lateral meniscal tear and patellofemoral chondromalacia and required a repeat arthroscopy due to her continued, ongoing symptomatology. Dr. Fumich noted that, obviously

³ Appellant's claim for a left knee condition was assigned claim number xxxxxx332.

with a bad knee, the continued walking of a mail route was contributory to aggravating the previous injury. He opined that there was a direct causal relationship between the symptomatic left knee and an internal derangement, most likely representing patellofemoral chondromalacia and a lateral meniscal tear, and the injury of September 18, 2014.

By decision dated March 25, 2015, OWCP denied the claim, finding that appellant failed to submit medical evidence establishing that she sustained a left knee condition in the performance of duty. The decision noted that her 2011 left knee surgery had not been accepted as causally related to her federal employment.

LEGAL PRECEDENT

An employee seeking benefits under FECA⁴ has the burden of establishing that 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.⁵ 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.⁶

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the employment factors identified by the claimant were the proximate cause of the condition for which compensation is claimed, or stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant. 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, either by direct cause or aggravation, and the specific employment factors identified by the claimant.⁷

⁴ 5 U.S.C. §§ 8101-8193.

⁵ *Joe D. Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁶ *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁷ *Id.* See also *E.T.*, Docket No. 15-687 (issued June 19, 2015).

ANALYSIS

Appellant has explained and the records supports that she had a prior left knee injury on October 19, 2002 which was accepted for left knee ligament strain and that continued walking, climbing up and down stairs, and standing while casing mail caused her current left knee condition.

In the instant case, appellant has failed to submit any medical opinion containing a rationalized, probative report which sufficiently relates her current claimed left knee condition was caused or aggravated by factors of her employment. The medical evidence of record does not sufficiently identify which employment duties are alleged to have caused her current left knee condition or sufficiently explain how these factors would result in causing her current condition. For this reason, appellant has not discharged her burden of proof to establish her claim that these conditions were sustained in the performance of duty.

In addition to appellant's accepted October 19, 2002 left knee ligament strain, the record indicates that she underwent a left knee procedure in 2011 which was not authorized by OWCP. In support of her claim that her current left knee condition was caused by factors of her federal employment, appellant submitted March 5, 2015 reports from Dr. Fumich. Dr. Fumich advised that she underwent a left knee arthroscopy in December 2011 and continued to experience pain in the patellofemoral joint and lateral joint line, he did not acknowledge, however, that this procedure in 2011 was not accepted as due to an employment injury. He advised that appellant underwent x-ray tests which indicated varus with decreased medial joint space and some patellofemoral arthritic change in the left knee. Dr. Fumich recommended that she undergo additional left knee arthroscopy surgery in light of her continued, ongoing symptomatology.

Dr. Fumich opined that appellant's duties of walking a mail route contributed to and aggravated her previous injury. He found that there was a direct causal relationship between the symptomatic left knee and an internal derangement, most likely representing patellofemoral chondromalacia and a lateral meniscal tear, and the injury of September 18, 2014. Dr. Fumich's reports, however, did not provide a probative, rationalized medical opinion that the claimed condition was causally related to employment factors. His opinion on causal relationship is of limited probative value as it does not contain any medical rationale how or why appellant's claimed left knee condition was currently caused or aggravated by factors of employment, especially in light of the fact that her 2011 claim for recurrence of her 2002 left knee injury was not accepted.⁸

The weight of medical opinion is determined by the opportunity for and thoroughness of examination, the accuracy and completeness of a physician's knowledge of the facts of the case, the medical history provided, the care of analysis manifested, and the medical rationale expressed in support of stated conclusions.⁹ Dr. Fumich did not sufficiently describe appellant's job duties or explain the medical process through which such duties would have been competent to cause the current claimed condition. His opinion is of limited probative value as it does not

⁸ *William C. Thomas*, 45 ECAB 591 (1994).

⁹ *See Anna C. Leanza*, 48 ECAB 115 (1996).

contain any medical rationale explaining how her job duties physiologically caused the diagnosed left knee condition. Dr. Fumich's reports thus did not constitute adequate medical evidence to establish that appellant's claimed left knee condition was causally related to her employment.

An award of compensation may not be based on surmise, conjecture, or speculation. Neither the fact that appellant's condition became apparent during a period of employment nor the belief that her condition was caused, precipitated, or aggravated by her employment is sufficient to establish causal relationship.¹⁰ Causal relationship must be established by rationalized medical opinion evidence and she failed to submit such evidence.

OWCP advised appellant of the evidence required to establish her claim. However, appellant failed to submit such evidence. Consequently, she has not met her burden of proof in establishing that her claimed left knee condition was causally related to her employment.

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 failed to meet her burden of proof to establish that her current left knee condition is causally related to factors of her federal employment.

¹⁰ *Id.*

ORDER

IT IS HEREBY ORDERED THAT the March 25, 2015 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: October 20, 2015
Washington, DC

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

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

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board