



## **FACTUAL HISTORY**

On August 1, 2013 appellant, then a 49-year-old mail carrier, filed a traumatic injury claim (Form CA-1) alleging that on July 31, 2013 he sustained a left knee injury in the performance of duty. He claimed that his knee buckled while walking, which caused swelling and soreness. Appellant did not stop work, but he began a modified-duty position on August 14, 2014.

In an August 2, 2013 attending physician's report (Form CA-20), Dr. Trissana Emdadi, Board-certified in family medicine, advised that appellant was delivering mail when he twisted his knee. She assessed knee sprain and noted that he could return to work with restrictions. Dr. Emdadi checked the box marked "yes" to indicate that appellant's condition was caused or aggravated by an employment activity.

In an August 2, 2013 disability status report, she advised that he was limited to lifting 35 pounds, standing was limited to one hour per day, and driving was limited to six hours per day. In an August 2, 2013 report, Dr. George Poulos, a Board-certified diagnostic radiologist, advised that a left knee x-ray revealed mild tricompartmental osteoarthritis, bilateral chondrocalcinosis, no acute bony fractures or dislocation, and no evidence of joint effusion.

Dr. Babington Yung, a Board-certified diagnostic radiologist, advised in an August 15, 2013 report that a left knee x-ray revealed advanced tricompartmental left knee arthritis, complete rupture of the anterior cruciate ligament (ACL), complex tear of the posterior horn of the medial meniscus, possible posterior meniscal root tear, and moderate left knee effusion.

On August 30, 2013 Dr. George Brown, a Board-certified orthopedic surgeon, advised that appellant complained of left knee pain. He noted that on July 31, 2013 appellant twisted his knee on the job. Dr. Brown assessed advanced osteoarthritis in the left knee and advised appellant to consider a total knee replacement.

In an August 16, 2013 report, a physician assistant advised that appellant returned to work from having a total hip replacement on July 29, 2013. He noted that on July 31, 2013 appellant's left knee twisted and gave out while carrying mail. Left knee examination revealed moderate joint effusion, significant pain with range of motion from 0 to 90 degrees, and marked crepitus. The physician assistant assessed ACL injury tear, torn medial meniscus, and osteoarthritis of the knee.

On September 9, 2013 appellant requested authorization for a left knee total arthroplasty.

By letter dated September 19, 2013, OWCP notified appellant that initially his claim was administratively handled to allow medical payments, as it appeared to be a minor injury resulting in minimal or no lost time from work. However, it advised that it was now considering the merits of his claim because he requested authorization for surgery. OWCP advised appellant of the type of evidence needed to establish his claim.

In an October 16, 2013 response to an OWCP questionnaire, appellant advised that while delivering mail on July 31, 2013 his left knee buckled causing him to stumble. He stated that he was unsure why his knee gave out, noting that the weather was clear and that there were no other

defects. Appellant noted that he reported his injury to his supervisor and sought medical treatment the following day. He denied any similar disability or symptoms to his left knee prior to the incident.

Dr. Brown, in an October 9, 2013 letter to appellant's counsel, advised that a narrative report on issues such as causation, functional losses, disabilities, and impairments was generally outside of the purview of his orthopedic practice. He suggested that appellant schedule an independent medical examination. Appellant also submitted several physical therapy reports.

In an October 17, 2013 letter, appellant, through counsel, advised that he had an orthopedic examination scheduled for October 31, 2013. He requested that the record be held open until November 19, 2013 to allow for the submission of that medical report and other medical evidence.

By decision dated October 21, 2013, OWCP denied appellant's claim, finding that the medical evidence of record was insufficient to establish that the work event caused or affected his diagnosed condition.

In a November 21, 2013 letter, appellant, through counsel, requested an oral telephone hearing. By decision dated January 15, 2014, OWCP denied appellant's request as untimely. It exercised its discretion and further denied the request for the reason that the case could be equally well addressed by requesting reconsideration and submitting new evidence.

In an August 2, 2013 report, Dr. Emdadi advised that appellant returned to work on July 29, 2013 following hip replacement surgery. She noted that he had a five-mile route and typically walked five hours per day as a mail carrier. Dr. Emdadi explained that on July 31, 2013 appellant's right knee buckled and twisted while walking which caused immediate pain. She advised that he had a previous knee injury in the 1980's when he fell and hit his knee. Examination of the left knee revealed mild swelling, no obvious deformity, decreased range of motion, tenderness over the lateral aspect of the knee and lateral collateral ligament region, and crepitus under the patella. Dr. Emdadi assessed knee sprain.

Appellant submitted a copy of the August 16, 2013 physician assistant's report cosigned by Dr. Brown and other reports previously considered by OWCP.

On August 11, 2014 appellant requested reconsideration. In support of the request, he submitted a July 17, 2014 report from Dr. Byron Hartunian, an orthopedic surgeon. Dr. Hartunian advised that appellant's position included repetitive standing, bending, twisting, pivoting, squatting, walking, climbing, and reaching. He noted that appellant related that on July 31, 2013 his left knee buckled resulting in acute discomfort and swelling. Left knee examination revealed swelling, large palpable effusion, tenderness to patellofemoral compression and along the medial joint line, and mildly positive anterior drawer. Dr. Hartunian assessed tricompartmental degenerative arthritis of the left knee, ACL tear of the left knee with rotational laxity, and complex tear of the medial meniscus. He opined that appellant's work activities resulted in excessive impact loading and repeated local stresses caused mechanical stresses on the cartilage surfaces resulting in chronic inflammation and loss of articular cartilage contributed to the acceleration of his arthritis condition. Dr. Hartunian cited numerous articles

and literature to support the notion that duties such as repeated knee bending, kneeling, lifting, climbing, stooping, and twisting are causative contributing factors to the development and progression of lower extremity arthritis. He opined that excessive impact loading and repeated local stresses caused mechanical stresses on the cartilage surface resulting in chronic inflammation that results in an accelerated loss of articular cartilage.

By decision dated October 16, 2014, OWCP denied modification of its prior decision because the medical evidence of record did not provide sufficient rationale in support of causal relationship.

On appeal, counsel argues that the claim should be accepted as the medical evidence was sufficient.

### **LEGAL PRECEDENT**

An employee seeking compensation under FECA has the burden of establishing the essential elements of his or her claim by the weight of reliable, probative, and substantial evidence,<sup>3</sup> including that he or she is an “employee” within the meaning of FECA and that he or she filed his or her claim within the applicable time limitation.<sup>4</sup> The employee must also establish that he sustained an injury in the performance of duty as alleged and that his disability for work, if any, was causally related to the employment injury.<sup>5</sup>

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. There are two components involved in establishing fact of injury. First, the employee must submit sufficient evidence to establish that he actually experienced the employment incident at the time, place, and in the manner alleged. Second, the employee must submit medical evidence to establish that the employment incident caused a personal injury.<sup>6</sup>

Rationalized medical opinion evidence is generally required to establish causal relationship. The opinion of the physician must be based on a complete factual and medical background, 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.<sup>7</sup>

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<sup>3</sup> *J.P.*, 59 ECAB 178 (2007); *Joseph M. Whelan*, 20 ECAB 55, 57 (1968).

<sup>4</sup> *R.C.*, 59 ECAB 427 (2008).

<sup>5</sup> *Id.*; *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

<sup>6</sup> *T.H.*, 59 ECAB 388 (2008).

<sup>7</sup> *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 345 (1989).

## ANALYSIS

There is no dispute that on July 31, 2013 appellant was walking while delivering mail. Therefore, the Board finds that the first component of fact of injury is established. However, the medical evidence of record is insufficient to establish that the employment incident on July 31, 2013 caused or aggravated his diagnosed condition.

In his July 17, 2014 report, Dr. Hartunian advised that appellant's position included repetitive standing, bending, twisting, pivoting, squatting, walking, climbing, and reaching. He noted that appellant related that on July 31, 2013 his left knee buckled resulting in acute discomfort and swelling. Dr. Hartunian opined that appellant's work activities contributed to the acceleration of his arthritis condition. He noted that excessive impact loading and repeated local stresses caused mechanical stresses on the cartilage surface resulting in chronic inflammation that results in an accelerated loss of articular cartilage. Dr. Hartunian explained that activities such as repeated knee bending, kneeling, lifting, climbing, stooping, and twisting are causative contributing factors to the development and progression of lower extremity arthritis, but he does not specifically address how the July 31, 2013 traumatic incident caused or aggravated the diagnosed condition. As a result, this report is insufficient to establish that a July 31, 2013 traumatic injury accelerated appellant's arthritis.

In her August 2, 2013 report, Dr. Emdadi advised that appellant had a five-mile route and typically walked five hours per day as a mail carrier. She explained that on July 31, 2013 his right knee buckled and assessed knee sprain. This report is insufficient to discharge appellant's burden of proof as Dr. Emdadi does not explain how walking the mail route caused a knee sprain. The Board has long held that medical opinions not containing rationale on causal relationship are of diminished probative value and are generally insufficient to meet his burden of proof.<sup>8</sup> In her August 2, 2013 attending physician's report (Form CA-20), Dr. Emdadi advised that appellant was delivering mail when he twisted his knee. She checked the box marked "yes" to indicate that his condition was caused or aggravated by an employment activity. However, the Board has held that an opinion on causal relationship that consists only of a physician checking yes to a medical form question on whether the claimant's condition was related to the history given is of little probative value.<sup>9</sup>

In his August 30, 2013 report, Dr. Brown, advised that appellant complained of left knee pain and noted that on July 31, 2013 he twisted his knee on the job. In an August 16, 2013 report, cosigned by Dr. Brown, he advised that appellant returned to work from having a total hip replacement on July 29, 2013. Appellant noted that on July 31, 2013 his left knee twisted and gave out while carrying mail. He assessed ACL injury tear, torn medial meniscus, and osteoarthritis of the knee. These reports are insufficient to discharge appellant's burden of proof. Dr. Brown relates the history of the injury. However, he does not provide medical rationale explaining how the incident resulted in ACL tear, torn medial meniscus, and aggravation of knee osteoarthritis. As discussed medical opinions not containing rationale on causal relationship are

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<sup>8</sup> *Carolyn F. Allen*, 47 ECAB 240 (1995).

<sup>9</sup> *Deborah L. Beatty*, 54 ECAB 334 (2003) (the checking of a box yes in a form report, without additional explanation or rationale, is insufficient to establish causal relationship).

of diminished probative value and are generally insufficient to meet appellant's burden of proof.<sup>10</sup> Furthermore, in his October 9, 2013 report, Dr. Brown specifically declined to provide a narrative report addressing causation.

Diagnostic and disability status reports were submitted. However, they are insufficient to discharge appellant's burden of proof as they do not offer a physician's opinion on causal relationship.<sup>11</sup> Appellant also submitted multiple physical therapy notes. However, physical therapists are not considered physicians as defined under FECA.<sup>12</sup> Thus, records from physician assistants and physical therapists are insufficient to establish the claim.<sup>13</sup>

On appeal, counsel disagrees with OWCP's decision and reiterated that medical evidence established causal relationship. However, the claim is deficient because appellant has not submitted medical evidence with adequate rationale explaining how the established work incident caused or contributed to the diagnosed conditions. Causal relationship is a medical question that must be established by probative medical opinion from a physician.<sup>14</sup> The physician must accurately describe appellant's work duties and medically explain the pathophysiological process by which these duties would have caused or aggravated his condition.<sup>15</sup> The need for medical reasoning or rationale is particularly important given the fact that appellant had preexisting left knee arthritis.

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 not met his burden of proof to establish a traumatic injury in the performance of duty on July 31, 2013.

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<sup>10</sup> *Supra* note 8.

<sup>11</sup> *See Jaja K. Asaramo*, 55 ECAB 200 (2004) (medical evidence that does not offer an opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship).

<sup>12</sup> *A.C.*, Docket No. 08-1453 (issued November 18, 2008). Under FECA, a "physician" includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, and osteopathic practitioners within the scope of their practice as defined by State law. 5 U.S.C. § 8101(2). *See also Charley V.B. Harley*, 2 ECAB 208, 211 (1949) (where the Board held that medical opinion, in general, can only be given by a qualified physician).

<sup>13</sup> *Allen C. Hundley*, 53 ECAB 551 (2002); *Lyle E. Dayberry*, 9 ECAB 369 (1998).

<sup>14</sup> *See supra* note 7.

<sup>15</sup> *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 S.T.*, Docket No. 11-237 (issued September 9, 2011).

**ORDER**

**IT IS HEREBY ORDERED THAT** the October 16, 2014 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: March 7, 2016  
Washington, DC

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

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

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board