



## **ISSUE**

The issue is whether appellant met his burden of proof to establish an injury causally related to the accepted April 29, 2015 work incident.

## **FACTUAL HISTORY**

On April 30, 2015 appellant, then a 43-year-old aircraft electrician, filed a traumatic injury claim (Form CA-1) alleging that on April 29, 2015 he sustained a left knee injury when he was carrying maintenance equipment, made a change of direction, and felt a pop in his knee and slight pain. The following morning the pain in his left knee had increased. Appellant stopped work, notified his supervisor, and first received medical care on April 30, 2015.

OWCP received a hospital record from Dr. Wei Fan, an emergency physician, dated December 18, 2014, which noted that appellant had been seen that day for epigastric pain after he ran into a large piece of machinery. Appellant was diagnosed with a contusion, and was restricted from lifting for seven days.

In support of his claim, appellant submitted an April 30, 2015 emergency room report from Gordon O'Dell, a nurse practitioner, and May 4, 2015 treatment notes from Christopher Jones, a physician's assistant, which documented treatment for his left knee injury.

In an April 30, 2015 diagnostic report, Dr. Chris Donikyan, a doctor of osteopathic medicine, reported that an x-ray of the left knee revealed no evidence of acute fracture or malalignment.

In a May 18, 2015 diagnostic report, Dr. Steve Sharon, a Board-certified diagnostic radiologist, reported that the magnetic resonance imaging (MRI) scan of the left knee revealed subtle tearing along the free edge of the posterior horn of the medial meniscus and undersurface of the posterior horn with mild surrounding synovitis, mild effusion of a plica and small popliteal cyst, and slight chondromalacia patella.

In another May 18, 2015 diagnostic report, Dr. Sharon reported that the MRI scan of the right knee revealed slight effusion medial synovial plica and small popliteal cyst, mild distal quadriceps tendinopathy without tear, slight prepatella soft tissue swelling, and no meniscal tear.

In a May 26, 2015 medical report, Dr. John Uhorchak, a Board-certified orthopedic surgeon, reported that on April 29, 2015 appellant was moving equipment when he stepped in a different direction and felt two pops in his left knee. Appellant sought emergency medical treatment the following day, but complained of continued sharp pain. Dr. Uhorchak noted no significant past medical history, reviewed diagnostic testing, and provided findings on physical examination. He diagnosed left knee tear of the medial meniscus and recommended arthroscopic surgery. Dr. Uhorchak noted that if appellant's symptoms were caused by arthritis, knee surgery would not alleviate his symptoms, and could cause it to worsen. He further noted that appellant could expect improvement of his symptoms if a mechanical cause was found which could be treated arthroscopically. Dr. Uhorchak opined that appellant's current symptoms were causally related to his work injury and complaints were consistent with the history of injury and the

objective findings. In a May 28, 2015 authorization request form, he requested authorization for arthroscopic knee surgery.

By letter dated June 12, 2015, OWCP notified appellant that his claim had been initially handled administratively to allow medical payments, as his claim appeared to involve a minor injury resulting in minimal or no lost time from work. However, the merits of appellant's claim had not been formally considered and his claim had been reopened for consideration of the merits because he now had requested authorization for surgery. OWCP informed him that the evidence of record was insufficient to support his claim. Appellant was advised of the medical and factual evidence needed and was afforded 30 days to respond.

In a June 19, 2015 narrative statement, appellant explained that he was not claiming injury to his right knee and mistakenly submitted a right knee MRI scan. He further stated that, prior to the April 29, 2015 employment incident, he had no history of knee injury, disability, or symptoms pertaining to his left knee and thus, had no prior medical records to submit.

By report dated July 2, 2015, Dr. Uhorchak related that he had treated appellant on May 4 and 26, 2015 for a left knee injury. He repeated the history of injury and findings made in his May 26, 2015 report. Dr. Uhorchak diagnosed left knee sprain and meniscus tear, recommending arthroscopic surgery. Pertaining to the mechanism of injury, he opined that moving equipment at work and stepping in a different direction caused appellant's left knee to pop which was a direct cause of his injury. Dr. Uhorchak opined that appellant's symptoms were causally related to the work injury because his complaints were consistent with the history of injury and objective findings.

By decision dated July 15, 2015, OWCP denied appellant's claim finding that the evidence of record failed to establish that his left knee sprain and meniscus tear were causally related to the accepted April 29, 2015 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 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>3</sup> These are the essential elements of each and every compensation claim regardless of whether the claim is predicated on a traumatic injury or an occupational disease.<sup>4</sup>

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

---

<sup>3</sup> Gary J. Watling, 52 ECAB 278 (2001); Elaine Pendleton, 40 ECAB 1143, 1154 (1989).

<sup>4</sup> Michael E. Smith, 50 ECAB 313 (1999).

employment incident which is alleged to have occurred.<sup>5</sup> The second component is whether the employment incident caused a personal injury and generally can be established only by medical evidence.

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 supporting such a causal relationship.<sup>6</sup> 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. 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

OWCP accepted that the April 29, 2015 employment incident occurred as alleged. The issue is whether appellant established that the incident caused a left knee injury. The Board finds that he failed to submit sufficient medical evidence to support that his left knee strain and tear of the medial meniscus are causally related to the accepted April 29, 2015 employment incident.<sup>8</sup>

In support of his claim, appellant submitted medical reports dated May 26 and July 2, 2015 from Dr. Uhorchak. Dr. Uhorchak diagnosed left knee sprain and meniscus tear and opined that the injury was caused by the April 29, 2015 employment incident. The Board finds, however, that his opinion was not well rationalized. Dr. Uhorchak provided a vague description of the April 29, 2015 employment incident and simply repeated appellant's assertions pertaining to the history of injury. He explained that appellant's symptoms were causally related to the work injury because his complaints were consistent with the history of injury and objective findings. The Board finds this vague and generalized statement on causation fails to provide a sufficient explanation as to the mechanism of injury and does not adequately explain how the April 29, 2015 employment incident would have caused or aggravated appellant's left knee sprain and meniscus tear.<sup>9</sup> Moreover, this statement is equivocal as Dr. Uhorchak noted that the cause of appellant's symptoms were unclear, specifically noting that he was unsure if the symptoms were caused by arthritis or a mechanical cause which could be treated

---

<sup>5</sup> *Elaine Pendleton*, *supra* note 3 at 1143.

<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> *M.R.*, Docket No. 14-11 (issued August 27, 2014).

arthroscopically.<sup>10</sup> Given this assessment, it is unclear how he related appellant's symptoms and injury to the April 29, 2015 incident.<sup>11</sup>

Dr. Uhorchak further opined that moving equipment at work and stepping in a different direction caused appellant's left knee to pop which was a direct cause of his injury. However, he failed to explain how stepping in a different direction while carrying equipment would cause appellant's left knee injury.<sup>12</sup> Medical reports without adequate rationale on causal relationship are of diminished probative value and do not meet an employee's burden of proof.<sup>13</sup> Without explaining how physiologically the movements involved in the employment incident caused or contributed to the diagnosed conditions, Dr. Uhorchak's opinion is of limited probative value and insufficient to meet appellant's burden of proof.<sup>14</sup>

The remaining medical evidence of record is also insufficient to establish causal relationship between appellant's left knee injury and the April 29, 2015 employment incident. Dr. Donikyan's April 30, 2015 x-ray of the left knee revealed normal findings and does not provide support for injury. Dr. Sharon's May 18, 2015 reports interpreted diagnostic imaging studies and provided no opinion on the cause of appellant's injury. The Board has held that medical evidence that does not offer any opinion regarding the cause of an employee's condition is of limited probative value.<sup>15</sup>

Ms. Gordon and Mr. Jones' reports are insufficient to establish appellant's claim as the reports were not signed by a physician. Registered nurses, physical therapists, and physician assistants, are not considered physicians as defined under FECA, therefore, their opinions are of no probative value.<sup>16</sup>

The December 18, 2014 report from Dr. Fan is irrelevant to appellant's claim as it predates the April 29, 2015 employment incident and provides no findings pertaining to the left knee. Any medical opinion evidence should reflect a correct history and offer a medically sound

---

<sup>10</sup> *Ricky E. Storms*, 52 ECAB 349 (2001) (medical opinions which are speculative or equivocal in character have little probative value).

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

<sup>12</sup> *S.W.*, Docket 08-2538 (issued May 21, 2009).

<sup>13</sup> *Ceferino L. Gonzales*, 32 ECAB 1591 (1981).

<sup>14</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>15</sup> *C.B.*, Docket No. 09-2027 (issued May 12, 2010); *S.E.*, Docket No. 08-2214 (issued May 6, 2009).

<sup>16</sup> In *Roy L. Humphrey*, 57 ECAB 238 (2005) the Board explained that as registered nurses, licensed practical nurses, and physician assistants are not considered physicians as defined under FECA. Their opinions are of no probative value. 5 U.S.C. § 8102(2) provides that the term "physician" includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, and osteopathic practitioners within the scope of their practice as defined by State law.

explanation by the physician of how the specific employment incident, in particular physiologically, caused or aggravated his left knee injury.<sup>17</sup>

The Board has held that the mere fact that a condition manifests itself during a period of employment does not raise an inference of causal relation.<sup>18</sup> An award of compensation may not be based on surmise, conjecture, speculation, or on the employee's own belief of causal relation.<sup>19</sup> Appellant's belief that the April 29, 2015 employment incident caused his medical injury is not in question, but that belief, however, sincerely held, does not constitute the medical evidence necessary to establish causal relationship. To establish a firm medical diagnosis and causal relationship, appellant must submit a physician's report in which the physician reviews those factors of employment alleged to have caused his condition and, taking these factors into consideration, as well as findings upon examination and his medical history, explain how these employment factors caused or aggravated any diagnosed condition, and present medical rationale in support of his opinion.<sup>20</sup>

In the instant case, the record lacks rationalized medical evidence establishing a causal relationship between the April 29, 2015 employment incident and the left knee sprain and meniscus tear. Thus, appellant has failed to meet his burden of proof.

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 an injury causally related to the accepted April 29, 2015 employment incident, as alleged.

---

<sup>17</sup> *T.G.*, Docket No. 14-751 (issued October 20, 2014).

<sup>18</sup> *Daniel O. Vasquez*, 57 ECAB 559 (2006).

<sup>19</sup> *D.D.*, 57 ECAB 734 (2006).

<sup>20</sup> *Supra* note 15.

**ORDER**

**IT IS HEREBY ORDERED THAT** the Office of Workers' Compensation Programs' decision dated July 15, 2015 is affirmed.

Issued: March 14, 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