

on ice while delivering mail. He stopped work on February 24, 2013 and returned on February 27, 2013.

On February 23, 2013 appellant was examined in the emergency room by Dr. Benjamin Kartman, Board-certified in emergency medicine, and released to return to work. In a February 23, 2013 attending physician's report (Form CA-20), Dr. Kartman noted a date of injury of February 22, 2013 and related appellant's complaints of knee pain. He provided examination findings of tenderness on spasm and diagnosed knee pain. Dr. Kartman checked a box marked "yes" in response to a question as to whether appellant's condition was caused or aggravated by the described activity of falling on ice. He authorized appellant to return to full duty on February 29, 2013.

Appellant also received a March 13, 2013 medical treatment report from James G. Castillo, a physician assistant, who related appellant's complaints of left knee and left shoulder pain and decreased range of motion. Mr. Castillo noted that appellant worked as a mail carrier and that on February 23, 2013 he slipped and fell on some ice when delivering mail. He diagnosed aggravated left knee degenerative joint disease and left shoulder pain with decreased range of motion. Mr. Castillo recommended that appellant undergo a magnetic resonance imaging (MRI) scan examination of the left shoulder to further evaluate his rotator cuff. He provided an attending physician's and duty status report (Form CA-17) which described the February 23, 2013 employment incident and diagnosed rotator cuff tendinitis. Mr. Castillo authorized appellant to resume regular duty on March 27, 2013.

In a March 13, 2013 letter, Dr. John J. Sharkey, a Board-certified orthopedic surgeon, noted that he examined appellant and requested that OWCP add a left shoulder injury to his claim file. He also requested authorization for a left shoulder MRI scan examination to evaluate a possible rotator cuff tear.

By letter dated August 6, 2013, OWCP informed appellant that his claim was initially accepted as a minor injury but was being reopened as medical expenses had exceeded \$1,500.00. It requested additional factual evidence to demonstrate that the February 23, 2013 incident occurred as alleged and medical evidence to establish that appellant sustained a diagnosed condition causally related to the alleged work incident. Appellant was afforded 30 days to submit this additional evidence.

On August 8, 2013 appellant underwent the recommended MRI scan of his left shoulder by Dr. Nidhi Gupta, a Board-certified diagnostic radiologist. He related appellant's complaints of left shoulder pain and decreased range of motion after a February 23, 2013 fall on his shoulder. Dr. Gupta observed mild tendinosis of the supraspinatus tendon with bursal-sided fraying and mild tendinosis of the biceps tendon at the groove entrance. Dr. Gupta also reported acromioclavicular (AC) joint degenerative changes manifested by joint space narrowing and prominent inferior osteophyte formation. He also found a questionable small tear of the anterosuperior labrum.

Dr. Sharkey continued to treat appellant and related in an August 15, 2013 report that appellant complained of constant pain in his left shoulder and knee. He noted that appellant was initially evaluated in his office in March after he fell down on his left side at work on

February 23, 2013. Upon examination, Dr. Sharkey observed full painless range of motion of the right shoulder with laterally full painless range of motion the elbows, wrist, and hand. He noted pain with abduction to 120 degrees and increasing pain with rotator cuff resistance testing, but no complaints of pain at the AC joint with palpation or with cross body arm abduction and no evidence of infrapinatus/supraspinatus atrophy. Dr. Sharkey related that an August 8, 2013 MRI scan of the left shoulder revealed evidence of some supraspinatus tendinosis and bicipital tendinosis. He recommended a subacromial injection.

In a decision dated September 10, 2013, OWCP denied appellant's claim. It accepted that the February 23, 2013 incident occurred as alleged and that he sustained left knee and shoulder conditions, but denied his claim finding insufficient medical evidence to establish that his conditions resulted from the accepted incident.

On September 12, 2013 OWCP received appellant's request, through counsel, for a telephonic hearing, which was held before an OWCP hearing representative on March 21, 2014. Appellant explained that he had worked as a city carrier since 2004 and had sustained one previous injury in 2005 when a dog bit him. He related that on February 23, 2013 he was delivering mail in the winter time when he slipped while climbing up some stairs and fell onto his left shoulder and leg. Appellant reported the incident to his supervisor but was able to finish his route. After he completed his route, he sought treatment at the emergency room and was advised to schedule an appointment with Dr. Sharkey. Counsel related that Dr. Sharkey diagnosed appellant with rotator cuff tendinitis and tear and aggravation of a preexisting left knee degenerative joint disease. He alleged that there was no evidence on file contrary to what Dr. Sharkey reported. Counsel stated that he would ask Dr. Sharkey to write another report and requested that the record be held open for 30 days. Nothing further was received.

By decision dated June 10, 2014, the OWCP hearing representative affirmed OWCP's September 10, 2013 denial decision.

Following the June 10, 2014 decision, appellant submitted an April 27, 2015 x-ray report of the left knee by Dr. Elaine Alexander, a Board-certified internist, who noted minimal degenerative changes and a trace amount of fluid within the joint. Dr. Alexander reported that appellant's proximal infrapatellar tendon was not well visualized concerning a tear or tendinosis.

On May 11, 2015 OWCP received appellant's request, through counsel, for reconsideration. He noted that he was submitting a May 6, 2015 report by Dr. Sharkey.

In a May 6, 2015 report, Dr. Sharkey indicated that in February 2013 appellant fell down at work and complained of left shoulder pain. He noted examination findings of full painless range of motion of the right shoulder and provided range of motion findings for appellant's left shoulder. Dr. Sharkey related that an August 8, 2013 MRI scan of the left shoulder revealed supraspinatus tendinosis/bicipital tendinosis with no rotator cuff tear. He diagnosed supraspinatus tendinosis and bicipital tendinosis. Dr. Sharkey indicated that the facts of the injury were the direct and proximate cause of the diagnosis. He explained that while there may be other causes for this medical problem, one of the causes was clearly the work activities previously described. Appellant also resubmitted Dr. Sharkey's August 15, 2013 report.

In a decision dated August 7, 2015, OWCP denied modification of the prior decision.

LEGAL PRECEDENT

An employee seeking benefits under FECA² has the burden of proof to establish the essential elements of his claim by the weight of the reliable, probative, and substantial evidence³ including that he sustained an injury in the performance of duty and that any specific condition or disability for work for which he claims compensation is causally related to that employment injury.⁴

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.⁵ There are two components involved in establishing the 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.⁶ Second, the employee must submit evidence, generally only in the form of probative medical evidence, to establish that the employment incident caused a personal injury.⁷ An employee may establish that the employment incident occurred as alleged but fail to show that his disability or condition relates to the employment incident.⁸

Whether an employee sustained an injury in the performance of duty requires the submission of rationalized medical opinion evidence.⁹ The opinion of the physician must be based on a complete factual and medical background of the employee, 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 employee.¹⁰ The weight of the 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.¹¹

² *Id.*

³ *J.P.*, 59 ECAB 178 (2007); *Joseph M. Whelan*, 20 ECAB 55, 58 (1968).

⁴ *G.T.*, 59 ECAB 447 (2008); *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

⁵ *S.P.*, 59 ECAB 184 (2007); *Alvin V. Gadd*, 57 ECAB 172 (2005).

⁶ *Bonnie A. Contreras*, 57 ECAB 364 (2006); *Edward C. Lawrence*, 19 ECAB 442 (1968).

⁷ *David Apgar*, 57 ECAB 137 (2005); *John J. Carlone*, 41 ECAB 354 (1989).

⁸ *T.H.*, 59 ECAB 388 (2008); *see also Roma A. Mortenson-Kindschi*, 57 ECAB 418 (2006).

⁹ *See J.Z.*, 58 ECAB 529 (2007); *Paul E. Thams*, 56 ECAB 503 (2005).

¹⁰ *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 465 (2005).

¹¹ *James Mack*, 43 ECAB 321 (1991).

ANALYSIS

Appellant alleged that on February 23, 2013 he sustained injuries to his left knee and shoulder when he slipped on ice while delivering mail. He stopped work and returned on February 27, 2013. OWCP accepted that the February 23, 2013 incident occurred as alleged and that appellant was diagnosed with left knee and shoulder conditions, but denied his claim finding insufficient medical evidence to establish that his conditions were causally related to the employment incident.

Appellant was initially examined in the emergency room by Dr. Kartman. In a February 23, 2013 attending physician's report, he noted a date of injury of February 22, 2013 and examination findings of tenderness on spasm of the left knee. The Board notes that Dr. Kartman related an incorrect date of injury. Dr. Kartman diagnosed knee pain but did not mention left shoulder pain in his diagnosis. He checked a box marked "yes" that appellant's condition was caused or aggravated by the described activity. The Board finds that Dr. Kartman's report is insufficient to establish causal relationship. Dr. Kartman did not provide a medical diagnosis for appellant's condition as pain is a description of a symptom and not considered a compensable medical diagnosis.¹² He also did not provide a rationalized opinion on the cause of appellant's knee pain as he only checked a box marked "yes" regarding causal relationship. The Board has held that when a physician's opinion on causal relationship consists only of checking "yes" to a form question, without explanation or rationale, that opinion is of diminished probative value and is insufficient to establish a claim.¹³ For these reasons, the Board finds that Dr. Kartman's report is insufficient to establish appellant's claim.

Dr. Sharkey also treated appellant and provided reports dated March 13, 2013 to May 6, 2015. He related that he examined appellant for complaints of constant pain in his left shoulder and knee after a February 23, 2013 fall at work. Dr. Sharkey conducted an examination and observed pain with abduction to 120 degrees and increasing pain with rotator cuff resistance testing in the left shoulder. In an August 15, 2013 report, he noted that a left shoulder MRI scan showed evidence of some supraspinatus tendinosis and bicipital tendinosis. Dr. Sharkey diagnosed supraspinatus tendinosis and biceps tendinosis. In a May 6, 2015 report, he opined that the facts of the injury were the "direct and proximate cause" of the diagnosis. The Board notes that Dr. Sharkey provided an accurate description of the February 23, 2013 employment incident and findings on examination. He diagnosed supraspinatus tendinosis and biceps tendinosis and opined that these conditions were caused by the described employment incident. The Board finds, however, that Dr. Sharkey did not provide any medical rationale or explanation for how the February 23, 2013 work incident of slipping on ice while delivering mail caused or contributed to appellant's left shoulder condition. The Board has found that medical reports that state a conclusion but fails to offer any rationalized medical explanation regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship.¹⁴ His

¹² *B.P.*, Docket No. 12-1345 (issued November 13, 2012); *C.F.*, Docket No. 08-1102 (issued October 2008).

¹³ *D.D.*, 57 ECAB 734, 738 (2006); *Deborah L. Beatty*, 54 ECAB 340 (2003).

¹⁴ *J.F.*, Docket No. 09-1061 (issued November 17, 2009); *A.D.*, 58 ECAB 149 (2006).

opinion, therefore, is insufficient to establish that appellant's left knee and shoulder conditions were causally related to the February 23, 2013 employment incident.

The additional diagnostic reports are likewise insufficient to establish appellant's claim. In an August 8, 2013 MRI scan of the left shoulder, Dr. Gupta diagnosed mild tendinosis of the supraspinatus tendon and biceps tendon and AC joint degenerative changes. An April 27, 2015 x-ray examination of the left knee by Dr. Alexander also revealed minimal degenerative changes and a trace amount of fluid within the joint. Although Drs. Gupta and Alexander provided medical diagnoses, they did not describe the cause of these conditions. The Board has found that 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.¹⁵ These reports, therefore, are insufficient to establish appellant's claim.

Appellant was also examined by Mr. Castillo, a physician assistant, on March 13, 2013. Section 8102(2) of FECA 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. Because physician assistants are not considered "physicians" as defined by FECA, their medical opinions regarding diagnosis and causal relationship are of no probative medical value.¹⁶ For this reason, Mr. Castillo's March 13, 2013 report is of no probative value and fails to establish appellant's claim.

On appeal, appellant's counsel alleges that OWCP was biased toward a denial decision. The record demonstrates, however, that OWCP properly considered all the evidence and found, as stated above, that the medical evidence submitted was insufficient to establish that his left knee and shoulder conditions were causally related to the February 23, 2013 employment incident. Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence.¹⁷ Because appellant has failed to provide such rationalized medical opinion evidence in this case, the Board finds that appellant did not meet his burden of proof.

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 did not meet his burden of proof to establish that his left knee and shoulder conditions were causally related to the accepted February 23, 2013 employment incident.

¹⁵ *R.E.*, Docket No. 10-679 (issued November 16, 2010); *K.W.*, 59 ECAB 271 (2007).

¹⁶ 5 U.S.C. § 8101(2); *Roy L. Humphrey*, 57 ECAB 238 (2005).

¹⁷ *I.R.*, Docket No. 09-1229 (issued February 24, 2010); *D.I.*, 59 ECAB 158 (2007).

ORDER

IT IS HEREBY ORDERED THAT the August 7, 2015 merit decision of the Office of Workers' Compensation Programs is affirmed.

Issued: May 19, 2016
Washington, DC

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

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

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