

Pursuant to the Federal Employees' Compensation Act³ (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

ISSUE

The issue is whether appellant met her burden of proof to establish that she sustained a left knee injury causally related to the accepted August 12, 2013 employment incident.

FACTUAL HISTORY

On August 12, 2013 appellant, then a 43-year-old mail carrier, filed a traumatic injury claim (Form CA-1) alleging that on that date she sustained a left knee injury when she was exiting her truck and began to experience left knee pain. She stopped work on the date of injury and did not return. On the reverse side of the form, the employing establishment controverted appellant's claim.

In an accompanying August 12, 2013 narrative statement, appellant reported that she was delivering mail and about to start her second loop at 10:00 a.m. when her knee started to hurt. She continued to deliver mail until she was limping due to pain, causing her to return to the employing establishment around 12:00 p.m.

In an August 12, 2013 witness statement, Rick Gannotti, appellant's supervisor, reported that appellant informed him that she exited the long life vehicle (LLV) and her left knee started to hurt. Appellant did not know how she got hurt. She sought treatment with her attending physician that same date who diagnosed strain after review of a left knee x-ray.

By letter dated August 22, 2013, OWCP notified appellant that her claim was initially administratively handled to allow medical payments, as her claim appeared to involve a minor injury resulting in minimal or no lost time from work. However, the merits of her claim had not been formally considered and her claim had been reopened because she had not returned to work in a full-time capacity. Appellant was advised that the evidence of record was insufficient to establish her traumatic injury claim. OWCP notified her of the medical and factual evidence necessary to establish her claim. Appellant was afforded 30 days to respond.

In a September 6, 2013 narrative statement, appellant reported that on August 12, 2013 she was delivering mail when she felt a strong pain in her left knee as she was exiting her truck. The pain worsened throughout the day until she could no longer walk. That same date appellant sought treatment with her attending physician, Dr. Fuad Ahmad, Board-certified in internal medicine who sent her to Chilton Hospital for left knee x-rays. She described her continued medical treatment and explained that her left knee required surgery. Appellant reported no similar left knee injuries or symptoms prior to August 12, 2013.

In an August 16, 2013 diagnostic report, Dr. Qiang Sun, a Board-certified diagnostic radiologist, reported that a magnetic resonance imaging (MRI) scan of the left knee revealed a small knee joint effusion, which could represent an intraarticular loose body verse focal

³ 5 U.S.C. § 8101 *et seq.*

synovitis, mild arthritic changes involving the medial compartment of the tibiofemoral joint without fracture or malalignment, and a faint thin linear high signal line in the body of the medial meniscus with suggestion of extension to the articular surface, likely representing a medial meniscal tear.

In an August 30, 2013 report, Dr. Joseph G. Cappadona, a Board-certified orthopedic surgeon, reported that appellant complained of left diffuse knee pain, which started on August 12, 2013 when she was getting out of her mail truck. He noted review of a left knee MRI scan, which revealed a tear of the medial meniscus, loose body in the anterior knee verses some synovitis, and arthritic changes. Dr. Cappadona provided findings on physical examination and diagnosed pain in joint involving left lower leg, tear of left medial cartilage or meniscus of knee, left chondromalacia of patella, and left knee loose joint body. He restricted appellant from working and recommended left knee arthroscopy. Dr. Cappadona opined that she would be out of work and could potentially return to light-duty sedentary work two weeks after surgery.

In a September 3, 2013 medical report, Dr. Ahmad noted that on August 12, 2013 appellant was at work distributing mail when she exited her truck, twisted her knee, and felt severe pain. He reported that she could not continue working and came to his office for treatment that same date. Dr. Ahmad's August 12, 2013 examination findings revealed left knee swelling and tenderness. He ordered an x-ray of the knee and advised that appellant rest a few days. Appellant returned on August 14, 2013 with persistent swelling and tenderness. Dr. Ahmad ordered an MRI scan of the left knee MRI scan which revealed medial meniscal tear and loose body. He diagnosed tear of medial cartilage or meniscus of knee and loose body in knee. Dr. Ahmad referred appellant to an orthopedic surgeon.

By decision dated October 2, 2013, OWCP accepted the August 12, 2013 employment incident, but denied appellant's claim, finding that the evidence of record failed to establish that her diagnosed meniscal tear, chondromalacia patella, and loose body in the left knee were causally related.

On October 9, 2013 appellant, through counsel, requested an oral hearing before an OWCP hearing representative. Counsel argued that a November 1, 2013 report from Dr. Ahmad established her claim as the physician reported that he never treated her for a left knee injury prior to the August 12, 2013 employment accident.

In an August 12, 2013 Chilton Hospital diagnostic report, Dr. Ahmad reported that an x-ray of the left knee revealed no evidence for acute fracture or acute bony abnormality.

In an October 24, 2013 note, Dr. Cappadona reported that appellant sustained a work-related left knee injury.

In an October 30, 2013 medical report, Dr. Vijaykumar Kulkarni, a Board-certified surgeon, reported that appellant complained of left knee pain and swelling, which was aggravated by prolonged walking, standing, bending, and changes in weather. Appellant reported that, on August 12, 2013, while exiting her mail truck, she twisted her left knee and had been out of work since the accident. Dr. Kulkarni provided findings on physical examination and reviewed prior medical reports. He diagnosed sprain and strain of the left knee with possible

loose bodies and tear of the medial meniscus with residual of post-traumatic synovitis and loss of range of motion. Dr. Kulkarni opined that the August 12, 2013 employment accident was the proximal cause of the complaints, physical findings, and diagnosis noted in his report. He recommended surgery.

In a November 1, 2013 medical narrative, Dr. Ahmad reported that appellant had been his patient since September 2009. Prior to August 12, 2013, he had never treated her for a left knee injury.

A hearing was held on June 4, 2014. At the hearing, appellant testified that on August 12, 2013 she was exiting her mail truck while holding a bag of mail. She stepped out of her parked LLV and placed her feet on the vehicle footboard. Appellant then awkwardly placed her right foot on the ground and followed by stepping out with her left leg. Her left leg twisted to the side, causing a sharp pain in her knee. Appellant continued to deliver mail, but her pain worsened to the point where she could no longer walk. She then notified her supervisor and sought immediate medical treatment with Dr. Ahmad. Appellant reported that she never informed her supervisor that she did not know how her injury occurred. Her Form CA-1 did not describe twisting her left knee because she did not think the additional details were necessary. Appellant described her medical treatment and reported no prior left knee injuries. She remained off work since the August 12, 2013 employment incident and was awaiting approval for left knee surgery.

Handwritten progress and excuse from work notes were submitted from Dr. Ahmad dated August 12, 2013 through May 6, 2014 documenting treatment for appellant's left knee condition. On August 12, 2013 he diagnosed left knee sprain. On August 14, 2013 Dr. Ahmad diagnosed left knee sprain and ordered an MRI scan of the left knee. On August 20, 2013 he reported that appellant twisted her left knee at work. Dr. Ahmad noted that an MRI scan of the left knee revealed meniscal tear (medial) and loose body.

By decision dated July 21, 2014, OWCP's hearing representative affirmed the October 2, 2013 OWCP decision finding that the evidence of record failed to establish that appellant's diagnosed left knee injuries were causally related to the accepted August 12, 2013 employment incident.⁴

On June 23, 2015 appellant, through counsel, requested reconsideration of the July 21, 2014 decision. Counsel stated that a December 27, 2014 and May 15, 2015 reports from Dr. Ahmad, as well as an October 23, 2014 report from Dr. Kulkarni, established her claim for compensation. Counsel further argued that, at the very least, the evidence of record shifted the burden to OWCP to further develop the medical evidence.

In an October 23, 2014 medical report, Dr. Kulkarni repeated the history of the April 12, 2013 employment incident, reviewed prior medical reports, and provided findings on physical examination. He diagnosed sprain and strain of the left knee with possible loose bodies and tear of the medial meniscus with residual of post-traumatic synovitis and loss of range of motion.

⁴ The Board notes that the hearing representative found that the record established that appellant twisted her left knee when she exited the LLV as the employing establishment failed to comment on her description of the events.

Dr. Kulkarni reported that appellant stated no injury prior to the August 12, 2013 employment incident and that he had no available records to indicate that she had any prior treatment or subsequent treatment to the left knee. Therefore, he concluded that the diagnoses rendered for the left knee were causally related to the injury sustained on August 12, 2013, which revealed loose bodies and a meniscal tear. Dr. Kulkarni opined that the August 12, 2013 employment accident was the proximal cause of the complaints, physical findings, and diagnosis noted in his report. The reasons for his opinion included history according to appellant, the physical examination, duties of her occupation, and review of medical records.

In a December 27, 2014 narrative report, Dr. Ahmad reported that a left knee MRI scan was done on August 16, 2013 a few days after the August 12, 2013 injury. He explained that a twisting movement during work lead to appellant's meniscal tears. Dr. Ahmad further stated that this type of injury was known to cause meniscus tears and was very common in athletic activities and sports. He reported that a loose body in the joint just behind the knee cap was a sign of small piece cut from the knee cartilage which was caused by the August 12, 2013 injury. Dr. Ahmad further noted a line in the inner cartilage of the knee indicated a cartilage tear, which was caused by the August 12, 2013 injury. He explained that arthritic changes were not caused by the recent injury in question, but that small joint fluid was related to the August 12, 2013 injury. Dr. Ahmad concluded that appellant suffered an injury on August 12, 2013 caused by the twisting movement, which led to a meniscus tear, requiring surgery.

In a May 15, 2015 narrative report, Dr. Ahmad reported that on August 12, 2013 appellant was in the course of employment as a mail carrier. Appellant stepped out of her truck, placed her right foot on the full board and then her left foot; and appellant then placed her right foot on the ground and as she placed her left foot on the ground she felt it twist, and then a sharp pain. Dr. Ahmad opined that this type of movement caused the torn meniscus she sustained on that date. "The mechanism of placing appellant's foot on the ground, and twisting of the knee [is] the type of mechanism that caused the torn meniscus, which require[s] surgical intervention."

By decision dated September 21, 2015, OWCP affirmed the July 21, 2014 decision finding that the evidence of record failed to establish that appellant's diagnosed left knee conditions were causally related to the accepted August 12, 2013 employment incident. It further found that the evidence of record failed to establish causal relationship sufficient to shift the burden to OWCP for further development of the medical evidence.

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.⁵ 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.⁶

In order 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 employment incident which is alleged to have occurred.⁷ 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.⁸ 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.⁹

ANALYSIS

OWCP accepted that the August 12, 2013 employment incident occurred as alleged when appellant stepped off her LLV and twisted her left knee. The issue before the Board is whether she has established that the incident caused her left knee injury. The Board finds that this case is not in posture for decision and must be remanded for further medical development.

It is well established that proceedings under FECA are not adversarial in nature and while the claimant has the burden of establishing entitlement to compensation, OWCP shares responsibility in the development of the evidence to see that justice is done.¹⁰

OWCP received medical and diagnostic reports, dated April 12, 2013 through May 5, 2015, from Dr. Ahmad. Dr. Ahmad provided a detailed medical history, physical examination

⁵ *Gary J. Watling*, 52 ECAB 278 (2001); *Elaine Pendleton*, 40 ECAB 1143, 1154 (1989).

⁶ *Michael E. Smith*, 50 ECAB 313 (1999).

⁷ *Elaine Pendleton*, *supra* note 4.

⁸ *See* 20 C.F.R. § 10.110(a); *John M. Tornello*, 35 ECAB 234 (1983).

⁹ *James Mack*, 43 ECAB 321 (1991).

¹⁰ *Phillip L. Barnes*, 55 ECAB 426 (2004); *William J. Cantrell*, 34 ECAB 1233 (1993); *Dorothy L. Sidwell*, 36 ECAB 699 (1985).

findings, and review of diagnostic testing. The Board notes that, while none of his reports are completely rationalized, they are consistent in indicating that appellant sustained an employment-related injury and are not contradicted by any substantial medical or factual evidence of record. Dr. Ahmad provided an accurate medical history explaining that he was appellant's attending physician since September 2009 and had never treated her for a left knee injury until August 12, 2013. He described the August 12, 2013 employment incident in detail explaining that appellant twisted her left knee while she was stepping off the full board of her LLV. Dr. Ahmad provided immediate treatment of appellant's injuries on the date of incident and noted physical examination findings of left knee tenderness and swelling. He ordered diagnostic testing on the date of injury yet x-rays revealed normal. Given appellant's continued swelling and tenderness as seen on physical examination, Dr. Ahmad ordered a left knee MRI scan, which revealed her current injury. He explained that the mechanism of placing her left foot on the ground and twisting her knee caused the torn meniscus. Dr. Ahmad further explained the left knee MRI scan findings stating that the loose joint body, cartilage tear, and small joint fluid were caused by the August 12, 2013 injury while arthritic changes were not caused by the injury in question.

While Dr. Ahmad did not fully describe the mechanism of the injury, he provided a clear, opinion based on examination findings and an accurate factual and medical background, that appellant sustained her left knee meniscus tear due to the August 12, 2013 employment incident when she stepped off her truck and twisted her left knee. He noted that the type of injury appellant experienced was known to result in meniscus tears. Dr. Ahmad demonstrated an understanding of the employment incident and discussed how this event caused her injuries. He provided a medical history and based his findings on diagnostic testing and physical examination. Additionally, Dr. Ahmad's opinion is not contradicted by any substantial medical or factual evidence of record.

Dr. Kulkarni's October 30, 2013 and October 23, 2014 reports provide support for appellant's assertions. Dr. Kulkarni explained that the August 12, 2013 employment incident of twisting appellant's left knee caused the sprain and strain with possible loose bodies and tear of the medial meniscus. As well, the reports of Dr. Cappadona also provide support for findings of a work-related injury.

Although the reports of Drs. Ahmad, Kulkarni, and Cappadona are not sufficient to meet appellant's burden of proof to establish her claim, they raise an uncontroverted inference between her condition and the work-related incident and are sufficient to require OWCP to further develop the medical evidence and the case record.¹¹

The Board notes that OWCP decisions discussed whether appellant's left knee injury was a preexisting condition unrelated to her employment duties. OWCP placed emphasis on the August 16, 2013 left knee MRI scan, which noted mild arthritic changes. Dr. Ahmad properly explained that the arthritic changes were not caused by the new injury while the meniscal tear and loose body were related to the August 12, 2013 employment incident. Moreover, physical

¹¹ See *Jimmy A. Hammons*, 51 ECAB 219 (1999); *John J. Carlone*, 41 ECAB 354 (1989).

examination findings of tenderness and swelling correlated with the tear of the meniscus as seen on MRI scan.¹²

The September 21, 2015 decision noted that, while Dr. Ahmad's May 15, 2015 report provided an accurate description of the mechanism of injury, his note failed to contain a complete and accurate history of injury with rationalized statements establishing a work-related condition. The Board notes that while Dr. Ahmad's May 15, 2015 report alone may not have been sufficient to establish appellant's claim, his compiled reports since the date of the August 12, 2013 employment incident provided support to further develop the medical evidence of record. While Dr. Ahmad's reports are not sufficient to meet her burden of proof to establish her claim, they are sufficient to require OWCP to further develop the medical evidence and the case record.¹³

The Board will remand the case for further development of the medical evidence. On remand OWCP should prepare a statement of accepted facts and obtain a rationalized opinion from an appropriate Board-certified physician as to whether appellant's left knee conditions are causally related to the August 12, 2013 employment incident, either directly or through aggravation, precipitation, or acceleration.¹⁴ Following this and any other further development deemed necessary, it shall issue a *de novo* decision on appellant's traumatic injury claim.

CONCLUSION

The Board finds that this case is not in posture for decision.

¹² The Board notes that there is no requirement that the federal employment be the only cause of appellant's injury. An employee is not required to prove that occupational factors are the sole cause of her claimed condition. If work-related exposures caused, aggravated or accelerated appellant's condition, she is entitled to compensation. *See S.S.*, Docket No. 08-2386 (issued June 5, 2008); *Beth P. Chaput*, 37 ECAB 158, 161 (1985).

¹³ *See P.K.*, Docket No. 08-2551 (issued June 2, 2009); *see also Horace Langhorne*, 29 ECAB 820 (1978).

¹⁴ *P.A.*, Docket No. 09-0319 (issued November 23, 2009).

ORDER

IT IS HEREBY ORDERED THAT the September 21, 2015 decision of the Office of Workers' Compensation Programs is set aside and the case is remanded for further development consistent with this decision.

Issued: October 17, 2016
Washington, DC

Patricia H. Fitzgerald, Deputy 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