

**United States Department of Labor
Employees' Compensation Appeals Board**

L.R., Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Coppell, TX, Employer**

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**Docket No. 16-0736
Issued: September 2, 2016**

Appearances:
*Michael E. Woods, Esq., for the appellant*¹
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
CHRISTOPHER J. GODFREY, Chief Judge
COLLEEN DUFFY KIKO, Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On March 4, 2016 appellant, through counsel, filed a timely appeal from a December 9, 2015 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act² (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 a right knee condition as a result of factors of her federal employment.

¹ In all cases in which a representative has been authorized in a matter before the Board, no claim for a fee for legal or other service performed on appeal before the Board is valid unless approved by the Board. 20 C.F.R. § 501.9(e). No contract for a stipulated fee or on a contingent fee basis will be approved by the Board. *Id.* An attorney or representative's collection of a fee without the Board's approval may constitute a misdemeanor, subject to fine or imprisonment for up to one year or both. *Id.*; *see also* 18 U.S.C. § 292. Demands for payment of fees to a representative, prior to approval by the Board, may be reported to appropriate authorities for investigation.

² 5 U.S.C. § 8101 *et seq.*

FACTUAL HISTORY

On September 17, 2013 appellant, then a 55-year-old mail clerk, filed an occupational disease claim (Form CA-2) alleging bilateral knee pain due to her employment duties. She explained that she had worked for the employing establishment for over 25 years counting mail, sweeping, dispatching, pushing, sorting, and throwing waste mail, while standing and walking on a hard surface. Appellant first received medical care for her condition on August 24, 2011 and stopped work on August 30, 2012. She notified her supervisor of her condition on October 17, 2013. The employing establishment controverted the claim.³

In an accompanying September 17, 2013 narrative statement, appellant reported that she began experiencing bilateral knee problems while working for the postal service in June 2011. Around that time her knees would swell, pop, and bend, almost causing her to fall. Appellant took over the counter medication, but the issue did not resolve. When standing at work she reported pain and tenderness in both knees, right worse than left, causing her to limp. Appellant sought treatment with her physician on August 24, 2011 who referred her for a magnetic resonance imaging (MRI) scan. Appellant's physician informed her that her condition was caused by repetitive walking and prolonged standing on a hard surface where she would walk on the workroom floor and count mail, walking back and forth from automation to manual to flats to sorter to culling, repeatedly every hour for 8 hours in a 40,000 square foot building. Appellant explained that busting bundles of mail, sweeping the mail, bopping mail, and throwing waste mail in the Postal Automated Redirection System (PARS) while standing on her feet on hard surfaces put a lot of stress on both her knees.

In support of her claim, appellant submitted an August 24, 2011 medical report from Dr. Miguel Canales, Board-certified in internal medicine. Dr. Canales reported that she complained of right knee and elbow pain. He diagnosed right knee tendinitis and right elbow epicondylitis.

In a February 4, 2013 diagnostic report, Dr. Travis Blanchard, a Board-certified diagnostic radiologist, reported that an x-ray of the right knee revealed patellofemoral and medial compartment arthritis and a two millimeter (mm) density in the posterior joint space view, which could represent a loose body. In another February 4, 2013 diagnostic report, he reported that a right knee MRI scan revealed deep fragmentation and tissing of the patellar cartilage/grade 3 and grade 4 cartilage damage with mild subarticular bone edema in the patella, thinning of the medial and lateral compartment articular cartilage without focal defect, and small popliteal/Baker's cyst.

In a September 11, 2013 medical report, Dr. John Sazy, a treating physician, reported that appellant complained of right knee pain, the sensation of her patella being disconnected, and locking. Appellant reported that she walked at work and believed that her knee condition could be work related. Dr. Sazy reviewed diagnostic testing and diagnosed right knee patella femoral syndrome with loose body as seen on x-ray. He opined that a medial meniscal tear was ruled out and recommended possible right knee arthroscopy.

³ The record reflects that appellant has seven other claims, for traumatic or occupational injury, which were accepted by OWCP.

The employing establishment controverted appellant's claim by letter dated October 31, 2013. It noted that her last day of work was August 29, 2012, and that she was receiving compensation on the periodic rolls under OWCP claim number xxxxxx481. The employing establishment further explained that, while appellant had been employed for over 25 years and 6 months, she had been working in a limited-duty capacity for over 19 years.

By letter dated November 4, 2013, OWCP informed appellant that the evidence of record was insufficient to support her claim. Appellant was advised of the medical and factual evidence needed and was afforded 30 days to submit the requested evidence. No additional evidence was received at that time.

By decision dated December 5, 2013, OWCP denied appellant's claim finding that the medical evidence failed to establish a firm medical diagnosis which could be reasonably attributed to her federal employment duties.

On December 28, 2013 appellant requested review of the written record before an OWCP hearing representative. She submitted an additional medical report from Dr. Sazy in support of her claim.

In a December 11, 2013 narrative report, Dr. Sazy reported that appellant first presented for right knee pain on January 30, 2013. Appellant believed the injury stemmed back to June 2011 when the back of her right knee popped when she was working at PARS, causing her to experience pain which eventually went away. She did not report this at the time of the injury because she did not consider this pain work related. Appellant sought treatment with her primary care physician two months later and was subsequently referred to this office. Dr. Sazy noted that review of a February 4, 2013 MRI scan revealed deep fragmentation of the patellar cartilage. Appellant stated that the pain was not bad at first, but became progressively worse with time. Dr. Sazy noted that this explained her gap in treatment and diagnosis. He reported that these were the facts as presented to him verbally by appellant. Dr. Sazy noted that, "If this is work related, would be a function of, considering that the initial event was June 2011, then symptoms progressed to January 30, 2013 beginning diagnosis and treatment."

By decision dated June 24, 2014, OWCP's hearing representative affirmed OWCP's December 5, 2013 decision, as modified, finding that she had established a medical condition, but had not submitted sufficient medical evidence to prove a causal relationship between the diagnosed condition and her employment duties.

On November 24, 2014 appellant, through counsel, requested reconsideration of the June 24, 2014 decision. Counsel contended that she worked in a 40,000 square foot building, walking back and forth, multiple times, for eight hours a day, five days a week, where she counted mail from the automated section to the manual section. Appellant was employed by the employing establishment for over 25 years and reported that the injury occurred when she was performing her repetitive employment duties while standing and walking on hard surfaces. She began having right knee problems in June 2011 when her knees would swell, pop, and bend, causing her to stumble and almost fall. Counsel submitted a medical report from Dr. Sazy arguing that his report established that appellant's injury was caused by repetitive walking and

standing on hard surfaces for long periods of time over several years of employment with the employing establishment.

In a November 5, 2014 narrative report, Dr. Sazy reported that appellant first reported a right knee injury from June 2011 when the back of her right knee popped while working at her job in PARS. Appellant had pain for a brief period of time and the pain went away. Dr. Sazy explained that her clinical findings correlated with patello femoral syndrome of her right knee from prolonged walking and the torsion of twisting and turning while being on her feet for long periods of time during her eight-hour shift. A February 4, 2013 MRI scan and x-ray revealed deep fragmentation of the patellar cartilage and medial compartment arthritis with two mm density in the posterior joint space that represents a loose body. Appellant stated that the pain was not bad at first, but progressively worsened with prolonged standing and walking on hard concrete surfaces. Dr. Sazy reported that these were the facts as presented by her. He opined that appellant's right knee injury was caused by repetitive walking and standing on hard surfaces for long periods of time over several years of employment with the employing establishment. Dr. Sazy explained that this was a work-related injury, considering the initial event was June 2011 where the symptoms progressed to January 30, 2013, requiring diagnosis, and treatment.

By decision dated March 2, 2015, OWCP affirmed the June 24, 2014 decision finding that the medical evidence of record failed to establish that the diagnosed conditions were causally related to her federal employment duties.

On May 27, 2015 appellant, through counsel, requested reconsideration of OWCP's decision. Counsel argued that she had established her claim for an occupational disease and submitted a May 26, 2015 report from Dr. Sazy in support of her claim.

In a May 26, 2015 narrative report, Dr. Sazy repeated the treatment history and review of diagnostic testing previously noted in his prior reports. He reported that appellant's clinical findings correlated with patello femoral syndrome of her right knee from prolonged walking and the torsion of twisting and turning while being on her feet for long periods of time during her eight-hour workshift. Appellant reported that her pain was not bad at first, but progressively worsened with prolonged standing and walking on hard concrete surfaces. Dr. Sazy explained that hard surfaces impact forces to the medial and lateral joint compartments to the knee that incites the inflammatory response, and results in synovitis of the knee. This resulting synovitis is the basis of the inflammatory response and it produced microscopic cartilaginous wear debris; thinning of the medial and lateral compartment articular cartilage. This cartilaginous wear debris produces the stimulus to the inflammatory response that, while metabolizing the debris also damages the cartilage of the femoral condyles, producing the current fragmentation and fissuring of the patellar cartilage damage. As such, Dr. Sazy opined that appellant experienced a work-related injury, considering the initial knee pop of June 2011 to where the symptoms progressed to the point of the January 30, 2013 office visit, requiring diagnosis, and treatment. He concluded that her right knee injury was caused by repetitive walking and standing on hard surfaces for long periods of time over several years of employment with the employing establishment.

By decision dated December 9, 2015, OWCP affirmed the March 2, 2015 decision finding that the medical evidence failed to establish that the diagnosed right knee injury was causally related to her federal employment duties.

LEGAL PRECEDENT

An employee seeking benefits under FECA has the burden of proof to establish 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 is causally related to the employment injury.⁴ These are the essential elements of every compensation claim regardless of whether the claim is predicated on a traumatic injury or occupational disease.⁵

To establish that an injury was sustained in the performance of duty in a claim for occupational disease, an employee must submit: (1) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; (2) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; and (3) medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the employee.⁶

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 based on a complete factual and medical background, supporting such a causal relationship.⁷ The opinion of the physician 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.⁸

ANALYSIS

OWCP denied appellant’s claim as the evidence failed to establish a causal relationship between her employment activities as a mail clerk and her right knee injury. The Board finds that the medical evidence of record is insufficient to establish that her right knee condition is causally related to her federal employment duties.

⁴ *Gary J. Watling*, 52 ECAB 278 (2001); *Elaine Pendleton*, 40 ECAB 1143, 1154 (1989).

⁵ *Michael E. Smith*, 50 ECAB 313 (1999).

⁶ *See Roy L. Humphrey*, 57 ECAB 238, 241 (2005); *Ruby I. Fish*, 46 ECAB 276, 279 (1994).

⁷ *See* 20 C.F.R. § 10.110(a); *John M. Tornello*, 35 ECAB 234 (1983).

⁸ *James Mack*, 43 ECAB 321 (1991).

In support of her claim, appellant submitted medical reports dated September 11, 2013; December 11, 2013; November 5, 2014; and May 26, 2015 from Dr. Sazy, her treating physician. The reports were virtually identical with exception of the last report, which described the etiology of her conditions.

In his May 26, 2015 narrative report, Dr. Sazy noted that appellant first reported a right knee injury from June 2011 when the back of her right knee popped while working at her job in PARS. Appellant had pain for a brief period of time and the pain went away. Dr. Sazy explained that her clinical findings correlated with patello femoral syndrome of her right knee from prolonged walking and the torsion of twisting and turning while being on her feet for long periods of time during her eight-hour shift. He explained that hard surfaces impact forces to the medial and lateral joint compartments to the knee that incites the inflammatory response, and results in synovitis of the knee. This resulting synovitis is the basis of the inflammatory response and it produced microscopic cartilaginous wear debris; thinning of the medial and lateral compartment articular cartilage. This cartilaginous wear debris produces the stimulus to the inflammatory response that while metabolizing, the debris also damages the cartilage of the femoral condyles, producing the current fragmentation, and fissuring of the patellar cartilage damage. As such, Dr. Sazy opined that appellant experienced a work-related injury considering the initial knee pop of June 2011 to where the symptoms progressed to the point of the January 30, 2013 office visit, requiring diagnosis and treatment.

While Dr. Sazy provided an opinion regarding the cause of appellant's right knee injury and described the mechanism of injury, the Board finds that his medical reports are insufficient to establish appellant's occupational disease claim. Rationalized medical opinion evidence must base on a complete factual and medical background, supporting such a causal relationship.⁹ Dr. Sazy failed to provide a detailed medical history, only noting that appellant's initial right knee complaints began in June 2011. The record reflects that appellant has seven other traumatic and occupational injury claims, but the physician made no reference to any other medical conditions or injuries.

The Board further notes that, while the record reflects that appellant worked for the employing establishment for 25 years, it indicated that 19 of those years were spent working in a limited-duty capacity. The reports of Dr. Sazy do not indicate that he was aware of any limited-duty assignments or modifications made based on other work-related injuries. He specifically noted that all facts in his report were presented by appellant. Thus, it is unclear if Dr. Sazy had an accurate reflection of the employment duties that she was performing at the time of her alleged injury. Nor did he note that appellant last worked as a mail clerk on August 20, 2012.

Dr. Sazy only generally described appellant's work duties without a clear understanding of the number of hours per day spent performing each task and the frequency of other physical movements. While he described the mechanism of injury, his opinion is vague regarding whether her injury was caused by standing and walking on concrete floors from her employment duties, a result of a preexisting condition, or due to nonoccupational factors. The opinion of a physician supporting causal relationship must rest on a complete factual and medical background supported by affirmative evidence, address the specific factual and medical evidence of record,

⁹ See *supra* note 7.

and provide medical rationale explaining the relationship between the diagnosed condition and the established incident or factor of employment.¹⁰ As Dr. Sazy failed to provide a fully-rationalized opinion that appellant's right knee patello femoral syndrome was caused or aggravated by her federal employment duties, his medical reports fail to establish that her injuries are a result of a work-related occupational exposure.¹¹

The remaining medical evidence is also insufficient to establish causal relationship between appellant's right knee injury and her occupational employment duties. Dr. Blanchard's February 4, 2013 reports simply interpret findings pertaining to the right knee x-ray and MRI scan with no opinion on the cause of injury.¹² Dr. Canales' August 24, 2011 note documented treatment for right knee tendinitis yet made no reference to a work-related injury. The Board has held that medical evidence which does not offer any opinion regarding the cause of an employee's condition is of limited probative value.¹³ Any medical opinion evidence appellant may submit to support her claim should reflect a correct history and offer a medically sound explanation by the physician of how the specific employment incident or work factors, in particular physiologically, caused, or aggravated her right knee injury.¹⁴

In the instant case, the record lacks rationalized medical evidence establishing a causal relationship between appellant's federal employment duties as a mail clerk and her diagnosed right knee patello femoral syndrome. Thus, appellant has failed to meet her 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 her burden of proof to establish that her right knee condition is causally related to factors of her federal employment.

¹⁰ See *Lee R. Haywood*, 48 ECAB 145 (1996).

¹¹ *S.R.*, Docket No. 12-1098 (issued September 19, 2012).

¹² *C.B.*, Docket No. 09-2027 (issued May 12, 2010); *S.E.*, Docket No. 08-2214 (issued May 6, 2009).

¹³ *Michael E. Smith*, 50 ECAB 313 (1999).

¹⁴ *T.G.*, Docket No. 14-751 (issued October 20, 2014).

ORDER

IT IS HEREBY ORDERED THAT the Office of Workers' Compensation Programs' decision dated December 9, 2015 is affirmed.

Issued: September 2, 2016
Washington, DC

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

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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