



form the employing establishment reported that he stopped work on July 26, 2015 and had not returned to work.

In a July 25, 2015 supplemental statement, appellant related that while walking his route he felt a sharp pain in his left knee. He continued his route, but the pain worsened to the point where he was unable to bend his knee. Appellant immediately informed his supervisor.

A July 27, 2015 U.S. Health Works Medical Group treatment authorization form noted the employing establishment as the employer. A.L., Supervisor, Customer Service signed the form authorizing treatment for appellant on July 27, 2015 at 11:40 a.m. with U.S. Health Works Medical Group. The date of injury was listed as July 25, 2015 with the injured body part listed as left knee.

In a July 28, 2015 report, Dr. Eric Jackson-Scott, a specialist in occupational medicine, provided physical examination findings and history of illness and diagnosed left knee/leg sprain/strain. Under history of illness, he noted that appellant attributed his condition to excessive walking on uneven surfaces and that he first noticed a sudden sharp left kneecap pain on July 25, 2015. Dr. Scott-Jackson noted that appellant had been in his position for less than 90 days, that he worked more than 60 hours per week, and that he attributed his injury/condition to his employment. A physical examination revealed a normal gait, moderate tenderness of the left patella, no joint effusion, and some left lower extremity flexion muscle strength weakness. Appellant was released to return to work with restrictions on July 28, 2015 and was referred for physical therapy. Regarding causation, Dr. Jackson-Scott reported that the diagnosis and physical examination findings were consistent with appellant's description of the injury. He concluded that there had been no aggravation of a preexisting condition by the injury/exposure, but that the current symptoms and findings were more likely to have been caused by the reported injury.

In a completed OWCP questionnaire form appellant indicated that he was filing an occupational disease claim and not a traumatic injury claim. He attributed his left knee condition to over nine hours per day of walking on gravel, rocks, sidewalk cracks, potholes, and curbs and going up stairs.

In a July 31, 2015 work status report, Dr. Jackson-Scott diagnosed a left leg/knee strain/sprain and provided work restrictions.

By correspondence dated August 10, 2015, OWCP informed appellant that the evidence of record was insufficient to establish his claim. It advised him regarding the medical and factual evidence required and afforded him 30 days to provide the requested evidence.

On August 11, 2015 OWCP received a July 31, 2015 report by Dr. Jackson-Scott, which noted an injury date of July 25, 2015, a diagnosis of left knee/leg sprain/strain, and reported appellant was improving slowly. Appellant's physical examination revealed tenderness on the left medial and lateral joint lines, no left patella subluxation or tenderness, and normal left knee range of motion. Dr. Jackson-Scott reported that appellant was capable of working with restrictions and a leg brace as of July 31, 2015.

OWCP subsequently received an August 6, 2015 report from Dr. Charles Potter, a Board-certified family medicine practitioner, noting an injury date of July 25, 2015 and diagnosis of left knee/leg sprain/strain. A physical examination revealed no tenderness of the left medial and lateral joint lines, no left patella subluxation or tenderness, and normal left knee range of motion. The report noted that appellant had no work restrictions.

In an August 17, 2015 report, Dr. Diana Johns, a specialist in occupational medicine, diagnosed left patella pain and prepatellar bursitis, which she indicated was not employment related. She noted that appellant's physical examination revealed no tenderness of the left medial and lateral joint lines, no left patella subluxation, mild tenderness over the patella pole, and normal left knee range of motion. In support of her conclusion that the condition was not employment related, Dr. Johns explained that it was not credible that the condition had been caused by his employment based on his complaints of pain after walking 10 minutes and a normal examination. Furthermore, the examination findings of patellar bursa swelling and redness were more consistent with a fall or contusion.

By decision dated September 16, 2015, OWCP denied the claim as it found that the medical evidence of record insufficient to establish that appellant's left knee condition had been caused or aggravated by the accepted employment activities.

On February 2, 2016 OWCP received appellant's December 24, 2015 request for an oral hearing before an OWCP hearing representative.

In a February 2, 2016 statement, appellant provided a history of his injury and that during orientation the employing establishment stressed that if he was injured on the job that he must document it. Appellant's supervisor advised him to fill out a Form CA-2 after being notified of his injury. Appellant related that his supervisor took him to a physician at U.S. Health Works and advised that the medical costs would be paid by the employing establishment.

On February 3, 2016 OWCP received a July 28, 2015 work status report signed by Mary Bustillo, a nurse practitioner, releasing appellant to return to work that day with restrictions.

By decision dated February 24, 2016, the Branch of Hearings and Reviewed denied appellant's February 24, 2016 request for an oral hearing as untimely. It noted that his oral hearing request had not been filed within 30 days of the September 16, 2015 decision and advised that the issue could equally well be addressed by requesting reconsideration.

On March 10, 2016 OWCP received appellant's March 7, 2016 request for reconsideration.

In a March 16, 2016 CA-110 notes, the employing establishment informed OWCP that appellant returned to work following the July 25, 2015 incident and voluntarily resigned after working a week.

By decision dated June 6, 2016, OWCP denied modification. It found the weight of the evidence rested with the well-rationalized opinion of Dr. Johns who opined that appellant's left knee condition was unrelated to his employment.

## LEGAL PRECEDENT

An employee seeking benefits under FECA<sup>2</sup> 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 and/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 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.<sup>5</sup>

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence.<sup>6</sup> Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on whether there is a causal relationship between the employee's diagnosed condition and the compensable employment factors.<sup>7</sup> 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.<sup>8</sup>

## ANALYSIS

The Board finds that the medical evidence of record is insufficient to establish a left knee condition causally related to walking on his mail route.

Dr. Jackson-Scott, in his July 28, 2015 report, diagnosed left knee/leg sprain strain. He reported that appellant had been in his position for less than 90 days and that appellant attributed

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<sup>2</sup> *Id.*

<sup>3</sup> *C.S.*, Docket No. 08-1585 (issued March 3, 2009); *Bonnie A. Contreras*, 57 ECAB 364 (2006).

<sup>4</sup> *S.P.*, 59 ECAB 184 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

<sup>5</sup> *D.U.*, Docket No. 10-144 (issued July 27, 2010); *R.H.*, 59 ECAB 382 (2008); *Roy L. Humphrey*, 57 ECAB 238 (2005); *Donald W. Wenzel*, 56 ECAB 390 (2005).

<sup>6</sup> *Y.J.*, Docket No. 08-1167 (issued October 7, 2008); *A.D.*, 58 ECAB 149 (2006); *D'Wayne Avila*, 57 ECAB 642 (2006).

<sup>7</sup> *J.J.*, Docket No. 09-27 (issued February 10, 2009); *Michael S. Mina*, 57 ECAB 379 (2006).

<sup>8</sup> *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

his knee pain to the excessive walking required in his job. Dr. Jackson-Scott noted that appellant's description of the knee injury was consistent with the diagnosis and examination findings. In addition, as appellant did not have a preexisting condition, Dr. Jackson-Scott opined it was more likely than not that the knee condition had been caused by appellant's employment. However, he failed to explain how the specific activity of excessive walking for less than 90 days caused or aggravated his left knee condition. A mere conclusion without the necessary rationale explaining how and why the physician believes that a claimant's accepted exposure resulted in the diagnosed condition is insufficient to meet appellant's burden of proof.<sup>9</sup> Dr. Jackson-Scott did not adequately explain why the physical examination findings and appellant's brief period of employment brought him to the conclusion that there was causal relationship between the diagnosed left knee condition and identified employment factor.<sup>10</sup> Furthermore, the mere fact that a disease or condition manifests itself during a period of employment, nor the belief that the left knee condition had been caused by the identified employment factor, is sufficient to establish a causal relationship.<sup>11</sup>

Moreover, Dr. Jackson-Scott's July 21, 2015 report is also insufficient to support appellant's claim. While he diagnosed a left leg/knee sprain/strain, he offered no opinion as to the cause of the condition. The Board has held that medical evidence offering no opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship.<sup>12</sup> For the above reasons, the Board finds Dr. Jackson-Scott's reports insufficient to establish a causal relationship between the diagnosed left knee condition and the identified employment factor.

The record also contains a report from Dr. Potter diagnosing a left knee/leg sprain/strain and injury date of July 25, 2015. He provided examination findings, but offered no opinion as to the cause of the diagnosed left knee condition. As explained above, medical evidence offering no opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship and insufficient to support appellant's claim.<sup>13</sup> Thus, Dr. Potter's report is insufficient to support appellant's burden.

OWCP received a July 28, 2015 report signed by nurse practitioner, Ms. Bustillo. Section 8101(2) of FECA<sup>14</sup> 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 the applicable state law. Reports by nurse practitioners are not considered medical evidence as nurse practitioners are not considered physicians under

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<sup>9</sup> *G.M.*, Docket No. 14-2057 (issued May 12, 2015); *Cecelia M. Corley*, 56 ECAB 662 (2005).

<sup>10</sup> *See R.E.*, Docket No. 14-868 (issued September 24, 2014); *Robert Broome*, 55 ECAB 339 (2004).

<sup>11</sup> *S.E.*, Docket No. 08-2214 (issued May 6, 2009); *Kathryn E. Demarsh*, 56 ECAB 677 (2005).

<sup>12</sup> *A.F.*, 59 ECAB 714 (2008); *Ellen L. Noble*, 55 ECAB 530 (2004); *Michael E. Smith*, 50 ECAB 313 (1999).

<sup>13</sup> *Id.*

<sup>14</sup> *See* 5 U.S.C. § 8101(2). *See also Charley V.B. Harley*, 2 ECAB 208, 211 (1949) (where the Board has held that a medical opinion, in general, can only be given by a qualified physician).

FECA.<sup>15</sup> This report is therefore of no probative medical value in establishing appellant's claim.<sup>16</sup>

Appellant also submitted an August 17, 2015 report from Dr. Johns diagnosing left patella pain and prepatellar bursitis. However, Dr. Johns concluded that these conditions were not employment related and were more consistent with a contusion or fall. As she found that appellant's diagnosed left knee condition was not employment related, her report is also insufficient to establish his claim.

Finally, the Board notes that OWCP's implementing regulations allow for authorization of medical treatment in emergency circumstances. While 20 C.F.R. § 10.300 explains that authorization of emergency medical treatment is usually provided by issuance of a Form CA-16, section 10.304 allows for authorization of emergency treatment, in the absence of a Form CA-16, in cases involving emergencies or unusual circumstances.<sup>17</sup> While there was no Form CA-16 issued in this case, the record reveals that appellant was accompanied by his supervisor who authorized treatment. Upon return of the case record, after such development deemed necessary, OWCP shall adjudicate whether his treatment on July 27, 2015 should be authorized due to an emergency or unusual circumstances.

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 that he sustained a left knee condition causally related to factors of his federal employment.

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<sup>15</sup> *Id.*, see also *M.S.*, Docket No. 16-1497 (issued December 20, 2016).

<sup>16</sup> *J.C.*, Docket No. 16-1182 (October 11, 2016).

<sup>17</sup> See also *N.B.*, Docket No. 15-0708 (issued July 15, 2015); *K.J.*, Docket No. 13-271 (issued May 23, 2013).

**ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated June 6, 2016 is affirmed.

Issued: January 26, 2017  
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