



On appeal counsel contends that OWCP's decision is wrong as appellant's physician explained that appellant sustained a torque injury when her knee rotated and popped and, thus, established causation.

### **FACTUAL HISTORY**

On March 19, 2015 appellant, then a 54-year-old city carrier, filed a traumatic injury claim (Form CA-1) alleging that on March 17, 2015 she was in a crosswalk on her route when she felt her left knee pop as she jumped out of the path of an oncoming car. She continued her route and reported her injury to the employing establishment when she returned to work. Appellant related that while working the next day her knee became swollen as she went up and down steps. She stopped work on March 18, 2015. The employing establishment maintained that it received notice of the claimed injury on March 25, 2015.

A March 23, 2015 duty status report (Form CA-17) from Dr. Lydia Villafuerte, Board-certified family practitioner noted a history that on March 17, 2015 appellant felt a pop in her left knee as she avoided an oncoming car. The report provided a finding of left torque swelling in the knee joint and other illegible findings. It also provided a diagnosis of left knee injury due to the March 17, 2015 incident. An OWCP authorization for examination (Form CA-16) was issued by the employing establishment on March 23, 2015 and authorized appellant to see Dr. Villafuerte.

In a March 27, 2015 letter, OWCP advised appellant of the deficiencies of her claim and afforded her 30 days to submit additional evidence and respond to its inquiries.

In a March 30, 2015 medical report, Dr. Barry A. Werries, an attending Board-certified orthopedic surgeon, noted a history of injury that on March 17, 2015 appellant felt her left knee pop as she jumped out of the path of an oncoming car while delivering mail. He also noted a history of her medical, family, and social background and her left knee complaints. Dr. Werries reviewed prior diagnostic test results and provided findings on physical and x-ray examination. He assessed knee joint pain.

The Form CA-16 was completed on March 31, 2015 by Dr. Villafuerte. She described appellant's history of sustaining an injury while delivering packages as she avoided a car that had failed to stop while she was in a crosswalk. Dr. Villafuerte diagnosed left knee effusion with a meniscus tear. She also checked a box marked "yes" that this condition was caused or aggravated by an employment activity. Dr. Villafuerte noted that appellant walked as she was delivery personnel. She found appellant totally disabled since March 23, 2015.

In an April 30, 2015 laboratory requisition, Dr. Werries ordered a magnetic resonance imaging (MRI) scan of the left lower extremity.

By decision dated May 6, 2015, OWCP accepted that the March 17, 2015 incident occurred as alleged. However, it denied appellant's claim and determined that the medical evidence did not establish a diagnosed medical condition in connection with the accepted employment incident.

In a May 7, 2015 disability certificate, Katherine DeJaynes, a medical assistant, placed appellant off work until further notice.

In a May 22, 2015 appeal request form and by letter dated June 3, 2015, appellant, through counsel, requested a telephone hearing with an OWCP hearing representative. The hearing was held on January 13, 2016.

In a May 21, 2015 left knee MRI scan report, Dr. Joshua D. Rieke, a Board-certified radiologist, provided an impression of medial meniscal tear and muscular edema/strain in the distal thigh and proximal leg.

Additional evidence also included a March 18, 2015 report from Dr. Tracy R. Hendricks, a Board-certified family practitioner and associate of Dr. Villafuerte. Dr. Hendricks noted a history of the March 17, 2015 employment incident, provided examination findings, and assessed a resolved left knee injury.

Knee injury questionnaires dated March 30, 2015 from Dr. Werries' office described the accepted March 17, 2015 work incident. The questionnaires indicated that appellant had preexisting arthritis in her knee. They noted her current symptoms and worsening pain when she walked and descended stairs. In reports dated May 20 to August 10, 2015, Dr. Werries provided examination findings prior to and following appellant's left knee arthroscopy and cartilage surgery performed on June 18, 2015.<sup>3</sup> He reiterated his assessment of knee joint pain and also assessed medial meniscus tear. In disability certificates dated March 30 to August 10, 2015, Dr. Werries placed appellant off work until further notice on intermittent dates during this period and noted her work restrictions. In an August 12, 2015 Form CA-17 report, he noted a date of injury as March 17, 2015 and set forth appellant's work restrictions.

In reports dated March 24 and December 9, 2015, Dr. Villafuerte noted a history of the accepted March 17, 2015 employment incident and appellant's medical, family, and social background. She reported findings on physical examination and assessed knee swelling and knee injury. In the March 24, 2015 report, Dr. Villafuerte related that appellant definitely did something to her knee and encouraged her to use a crutch so she did not make it more unstable. In the December 9, 2015 report, she believed that appellant had overworked her knee as the swelling was not limited to the knee joint, but extended to the surrounding tissue.

In a February 8, 2016 report, Dr. Stephen M. Ryan, a Board-certified surgeon, indicated that a lower extremity venous duplex study was interpreted as negative for acute deep vein thrombosis.

By decision dated March 2, 2016, an OWCP hearing representative affirmed with modification the May 6, 2015 decision. He found that while appellant had established a diagnosed condition the medical evidence failed to contain a rationalized medical opinion to establish a causal relationship between a left knee condition and the March 17, 2015 employment incident.

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<sup>3</sup> The record does not contain the operative report.

## LEGAL PRECEDENT

An employee seeking benefits under FECA has the burden of proof to establish the essential elements of his or her claim by the weight of the reliable, probative, and substantial evidence<sup>4</sup> including that he or she sustained an injury in the performance of duty and that any specific condition or disability for work for which he or she claims compensation is causally related to that employment injury.<sup>5</sup>

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.<sup>6</sup> There are two components involved in establishing the fact of injury. First, the employee must submit sufficient evidence to establish that she actually experienced the employment incident at the time, place, and in the manner alleged.<sup>7</sup> The second component is whether the employment incident caused a personal injury and generally can be established only by medical evidence.<sup>8</sup>

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence. 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>9</sup>

## ANALYSIS

The Board finds that appellant has not met her burden of proof to establish a traumatic injury causally related to the accepted March 17, 2015 employment incident. Appellant failed to submit sufficient medical evidence to establish that she sustained a left knee injury causally related to the accepted employment incident.

Dr. Villafuerte's March 23, 24, 31, and December 9, 2015 reports noted a history of the March 17, 2015 work incident, discussed findings on examination, and assessed knee swelling and knee injury. She found that appellant had overworked her knee as the swelling was not limited to the knee joint, but extended to the surrounding tissue. Dr. Villafuerte's March 31, 2015 report also diagnosed left knee effusion with a meniscus tear while supporting causal relationship by checking a box marked "yes," indicating that appellant's condition was employment related. The Board has held that an opinion on causal relationship which consists

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<sup>4</sup> *J.P.*, 59 ECAB 178 (2007); *Joseph M. Whelan*, 20 ECAB 55, 58 (1968).

<sup>5</sup> *G.T.*, 59 ECAB 447 (2008); *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

<sup>6</sup> *S.P.*, 59 ECAB 184 (2007); *Alvin V. Gadd*, 57 ECAB 172 (2005).

<sup>7</sup> *Bonnie A. Contreras*, 57 ECAB 364 (2006); *Edward C. Lawrence*, 19 ECAB 442 (1968).

<sup>8</sup> *John J. Carlone*, 41 ECAB 354 (1989); see 5 U.S.C. § 8101(5) (injury defined); 20 C.F.R. §§ 10.5(ee), 10.5(q) (traumatic injury and occupational disease defined, respectively).

<sup>9</sup> *G.O.*, Docket No. 16-0311 (issued June 14, 2016).

only of a physician checking a box marked “yes” on a medical form report, without further explanation or rationale, is of little probative value.<sup>10</sup> Dr. Villafuerte failed to sufficiently explain how medically appellant would have sustained a left knee condition when she jumped out of the path of an oncoming car. She did not adequately describe how the incident would have been sufficient to cause the claimed condition.<sup>11</sup> As such, Dr. Villafuerte’s reports were insufficiently rationalized to establish a causal connection between appellant’s March 17, 2015 work incident and her claimed left knee injury.<sup>12</sup>

Dr. Werries’ reports from March 30 to August 10, 2015 noted a history of the accepted March 17, 2015 employment incident, provided findings on examination, and assessed knee joint pain and medial meniscus tear. He failed, however, to offer a medical opinion on causal relationship between the accepted work incident and the diagnosed conditions.<sup>13</sup> Likewise, Dr. Werries’ remaining reports are of limited probative value as they also failed to provide an opinion addressing whether appellant’s claimed left knee condition was causally related to the accepted work incident.<sup>14</sup>

Similarly, Dr. Hendricks’ March 18, 2015 report is of limited probative value. While he noted that appellant was involved in a work-related incident on March 17, 2015 and assessed a resolved left knee injury, he failed to provide a firm medical diagnosis<sup>15</sup> or explain how her injury was caused or aggravated by the accepted employment incident.

Other medical reports of record are of limited probative value as they fail to offer a specific opinion on the causal relationship between the accepted March 17, 2015 employment incident and the diagnosed left knee condition.<sup>16</sup>

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<sup>10</sup> *Alberta S. Williamson*, 47 ECAB 569 (1996).

<sup>11</sup> *See R.C.*, Docket No. 15-315 (issued May 4, 2015); *Ceferino L. Gonzales*, 32 ECAB 1591 (1981) (medical reports without adequate rationale on causal relationship are of diminished probative value and do not meet an employee’s burden of proof).

<sup>12</sup> *Supra* note 9.

<sup>13</sup> *C.B.*, Docket No. 09-2027 (issued May 12, 2010); *J.F.*, Docket No. 09-1061 (issued November 17, 2009); *A.D.*, 58 ECAB 149 (2006) (medical evidence which does not offer any opinion regarding the cause of an employee’s condition is of limited probative value on the issue of causal relationship).

<sup>14</sup> *Id.*

<sup>15</sup> *See Deborah L. Beatty*, 54 ECAB 340 (2003) (where the Board found that in the absence of a medical report providing a diagnosed condition and a reasoned opinion on causal relationship with the employment incident, appellant did not meet her burden of proof).

<sup>16</sup> *See supra* note 13.

The May 7, 2015 disability certificate of Ms. DeJaynes, a medical assistant, has no probative medical value as medical assistants are not considered physicians as defined under FECA.<sup>17</sup>

The Board finds that appellant has failed to submit any rationalized probative medical evidence to establish a left knee injury causally related to the March 17, 2015 employment incident and; therefore, she did not meet her burden of proof.

On appeal counsel contends that OWCP's decision is wrong as appellant's physician explained that appellant had sustained a torque injury when her knee rotated and popped and, thus, established causation.

For the reasons found above, the Board finds that the weight of the medical evidence does not establish that appellant sustained a left knee injury causally related to the accepted March 17, 2015 work incident.

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.

The employing establishment executed a Form CA-16 on March 23, 2015 authorizing medical treatment. The Board has held that where an employing establishment properly executes a Form CA-16, which authorizes medical treatment as a result of an employee's claim for an employment-related injury, it creates a contractual obligation, which does not involve the employee directly, to pay the cost of the examination or treatment regardless of the action taken on the claim.<sup>18</sup> Although OWCP denied appellant's claim for an injury, it did not address whether she is entitled to reimbursement of medical expenses pursuant to the Form CA-16. Upon return of the case record, OWCP should address this issue.

### **CONCLUSION**

The Board finds that appellant has failed to meet her burden of proof to establish a left knee injury causally related to the March 17, 2015 employment incident.

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<sup>17</sup> 5 U.S.C. § 8101(2) (this subsection defines a physician as surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, and osteopathic practitioners within the scope of their practice as defined by State law); *see also R.S.*, Docket No. 16-1303 (issued December 2, 2016) (medical assistants); *G.G.*, 58 ECAB 389 (2007); *Jerre R. Rinehart*, 45 ECAB 518 (1994); *Barbara J. Williams*, 40 ECAB 649 (1989); *Jane A. White*, 34 ECAB 515 (1983).

<sup>18</sup> *See D.M.*, Docket No. 13-535 (issued June 6, 2013). *See also* 20 C.F.R. §§ 10.300, 10.304.

**ORDER**

**IT IS HEREBY ORDERED THAT** the March 2, 2016 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: January 13, 2017  
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