

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

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N.V., Appellant

and

U.S. POSTAL SERVICE, POST OFFICE,  
Kearney, NJ, Employer

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**Docket No. 17-0107  
Issued: July 3, 2017**

*Appearances:*  
*Appellant, pro se*  
*Office of Solicitor, for the Director*

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

COLLEEN DUFFY KIKO, Judge  
ALEC J. KOROMILAS, Alternate Judge  
VALERIE D. EVANS-HARRELL, Alternate Judge

**JURISDICTION**

On October 25, 2016 appellant filed a timely appeal from a September 29, 2016 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act<sup>1</sup> (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 has established that she met her burden of proof to establish a left knee condition causally related to factors of her federal employment.

**FACTUAL HISTORY**

On October 22, 2015 appellant, then a 25-year-old city carrier assistant, filed an occupational disease claim (Form CA-2) alleging that she sustained left knee pain, swelling, and patella tendinitis due to walking, bending, standing, and climbing stairs during the course of her

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<sup>1</sup> 5 U.S.C. § 8101 *et seq.*

federal employment. She indicated that she became aware of her condition on October 2, 2015 and stopped work on October 5, 2015.<sup>2</sup>

Appellant received treatment for left knee sprain from a nurse practitioner at the emergency department on October 3, 2015.

In a statement dated October 20, 2015, appellant related that when she awoke on October 2, 2015 her left leg hurt and was swollen, particularly in the knee area. Her symptoms continued so she sought medical treatment at the hospital on October 3, 2015. On October 15, 2015 a physician diagnosed patellofemoral and patella tendinitis. Appellant attributed her condition to extensive walking at work, including on uneven sidewalks and stairs. She had previously experienced pain before going to the hospital that resolved with medication.

On October 15, 2015 Dr. Kris Homb, a physiatrist, diagnosed patellofemoral and patellar tendinitis and referred appellant for physical therapy.

By letter dated November 30, 2015, OWCP requested that appellant submit additional factual and medical information, including a detailed report from her attending physician addressing the causal relationship between any diagnosed condition and the identified employment factors.

Dr. Homb evaluated appellant on December 3, 2015 for pain and swelling in the left knee. He indicated that the pain began two months ago without specific trauma and “increased with ambulation (delivering mail at work).” On examination Dr. Homb found tenderness over the patella facets and mild effusion. He diagnosed left knee pain and left knee patellofemoral pain syndrome based on the history and examination.

In an attending physician’s report (Form CA-20) dated December 3, 2015, Dr. Homb provided a history of appellant feeling pain in her left knee when delivering mail that worsened with extensive walking. He diagnosed left knee patellofemoral pain syndrome and checked a box marked “yes” that the condition was caused or aggravated by employment as she performed “repetitive walking with carrying heavy weight.” Dr. Homb found that appellant could perform light work beginning December 4, 2015. In duty status reports (Form CA-17) dated December 3 and 6, 2015, he diagnosed patellofemoral pain syndrome and provided work restrictions. Dr. Homb checked a box marked “yes” that the history provided by appellant of pain slowly increasing in the left knee due to repetitive walking corresponded to that provided on the form.

On December 9, 2015 the employing establishment controverted the claim, noting that appellant had waited 18 days after seeking medical treatment to notify her supervisor of her condition and had not previously advised of any problems resulting from her work duties.

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<sup>2</sup> On the claim form the employing establishment indicated that appellant had only begun work on August 23, 2015 and asserted that she was claiming an occupational disease after only 34 days of performing her duties. A subsequent personnel action form (SF-50) specified, however, that she began working for the employing establishment on August 23, 2014. Another SF-50, however, indicated that she began working on August 23, 2015. On December 9, 2015 the employing establishment clarified that appellant had worked over a year for the employing establishment.

Appellant, in a statement dated December 17, 2015, explained that she had not reported her claimed condition earlier because she thought that she needed medical documents to submit with the claim. She described in detail the work duties to which she attributed her left knee condition, including standing while casing mail, walking up and down steps, delivering mail into door slots, bending to pick up mail, and carrying a mailbag.

By decision dated January 19, 2016, OWCP denied appellant's claim as she had not submitted medical evidence sufficient to establish a left knee condition causally related to the accepted work factors. It also noted that, although she provided a history of becoming aware of her left knee condition on October 2, 2015 on her claim form, in her statement and medical reports she acknowledged a longer history of left knee pain.

In a December 23, 2015 progress report, received by OWCP on January 29, 2016, Dr. Homb discussed appellant's continued complaints of pain and swelling in her left knee. He diagnosed left knee pain/left patellofemoral pain syndrome and found that the examination and history were consistent "with mild effusion secondary to increased activity at work."

A magnetic resonance imaging (MRI) scan of the left knee, obtained on June 14, 2016, revealed a partial tear of the lateral patella tendon at the patellar insertion, a cartilage flap tear of the medial patellar facet, and effusion and synovitis of the knee joint.

Dr. Homb, in a report dated June 22, 2016, related that he had initially evaluated appellant on October 15, 2015 for patellar tendinopathy and patellofemoral pain syndrome. He related, "[Appellant's] symptoms developed slowly over two months. Appellant initially had occasional pain after working, delivering mail for the [employing establishment], that would improve with rest. On October 2, 2015 a day after work she awoke with significant pain and swelling in her left knee. [Appellant] denied a specific injury." Dr. Homb indicated that appellant's examination findings showed patellar tendinopathy and patellofemoral pain syndrome, which were "overuse injuries." Following physical therapy, she returned to work on May 10, 2016, but had to leave after two hours due to knee pain and swelling. Dr. Homb reviewed the findings on the MRI scan of a partial tear of the lateral patellar tendon, a cartilage flap tear of the medial to patellar facet, and moderate joint effusion and indicated that he was referring appellant for a surgical consultation. He related:

"The nature of [appellant's] work, delivering mail for the [employing establishment] (increased ambulation while carrying heavy bags of mail), caused her left[-]sided patellar tendinitis, patellofemoral pain syndrome, and partial patellar tendon tear. Patellar tendinitis and patellofemoral pain syndrome are overuse/wear and tear injuries and develop slowly without a specific injury. Patellar tendon tears may occur from trauma or from tendon weakness, which occurs with patellar tendinitis. Considering the lack of trauma, I believe her patellar tendon tear is directly related to patellar tendinitis that developed in relation to her work for the [employing establishment]...."

Appellant, on July 7, 2016, requested reconsideration.

By decision dated September 29, 2016, OWCP denied modification of its January 19, 2016 decision. It found that the medical evidence was not sufficiently rationalized to support a causal relationship between appellant's left knee condition and work factors.

### **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 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 an occupational disease claim, a claimant must submit the following: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed;<sup>5</sup> (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition;<sup>6</sup> and (3) medical evidence establishing the employment factors identified by the claimant were the proximate cause of the condition for which compensation is claimed or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant.<sup>7</sup>

### **ANALYSIS**

Appellant attributed her patellofemoral pain syndrome, patellar tendinitis, and partial patellar tendon tear of the left knee to extensive walking, stair climbing, bending, and standing while performing her work duties. OWCP accepted the occurrence of the claimed employment factors. The issue, therefore, is whether the medical evidence establishes a causal relationship between the claimed conditions and the identified employment factors.

Dr. Homb, on October 15, 2015, diagnosed tendinitis of the patellofemoral and patellar joints. He did not, however, address the cause of the diagnosed condition. Medical evidence that does not offer any opinion regarding the cause of an employee's condition is of diminished probative value on the issue of causal relationship.<sup>8</sup>

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<sup>3</sup> *Tracey P. Spillane*, 54 ECAB 608 (2003); *Elaine Pendleton*, 40 ECAB 1143 (1989).

<sup>4</sup> *See Ellen L. Noble*, 55 ECAB 530 (2004).

<sup>5</sup> *Michael R. Shaffer*, 55 ECAB 386 (2004).

<sup>6</sup> *Marlon Vera*, 54 ECAB 834 (2003); *Roger Williams*, 52 ECAB 468 (2001).

<sup>7</sup> *Beverly A. Spencer*, 55 ECAB 501 (2004).

<sup>8</sup> *See S.E.*, Docket No. 08-2214 (issued May 6, 2009); *K.W.*, 59 ECAB 271 (2007).

In a December 3, 2015 evaluation, Dr. Homb obtained a history of appellant experiencing left knee pain beginning two months earlier that increased with mail delivery. He diagnosed left patellofemoral pain syndrome. In an accompanying December 3, 2015 form report, Dr. Homb checked a box marked “yes” that the condition was caused or aggravated by employment, noting that appellant repetitively walked with heavy weight. The Board has held, however, that when a physician’s opinion on causal relationship consists only of checking a box to a form question, without explanation or rationale, that opinion has little probative value and is insufficient to establish a claim.<sup>9</sup> While Dr. Homb indicated that appellant carried heavy weight while walking, he did not explain how or why this caused patellofemoral pain syndrome, and thus his opinion is of diminished probative value.<sup>10</sup>

Dr. Homb, in a December 23, 2015 progress report, evaluated appellant for continued complaints of pain and swelling in her left knee. He diagnosed left knee pain and left patellofemoral pain syndrome. Dr. Homb found mild effusion due to increased work activities based on the history and findings on examination. He did not, however, explain the mechanism by which work activity resulted in mild effusion or the diagnosed conditions. A claimant, to meet her burden of proof, must submit an affirmative opinion on causal relationship from a physician who supports the opinion with sound medical reasoning.<sup>11</sup>

In duty status reports dated December 3 and 6, 2015, Dr. Homb diagnosed patellofemoral pain syndrome and again checked a box marked “yes” that the history provided by appellant corresponded to that provided on the form of pain slowly increasing in the left knee due to repetitive walking. The Board has held, however, that an opinion on causal relationship which consists only of a physician checking “yes” to a medical form question on whether the claimant’s condition was related to the history given is of little probative value. Without any explanation or rationale for the conclusion reached, such report is insufficient to establish causal relationship.<sup>12</sup>

In a July 22, 2016 report, Dr. Homb discussed appellant’s history of left knee pain that began after delivering mail and subsided with rest until October 2, 2015, when she experienced substantial pain. He diagnosed patellar tendinopathy and patellofemoral pain syndrome, which he identified as conditions resulting from overuse. Dr. Homb further advised that an MRI scan study revealed a lateral patellar tendon partial tear, a cartilage flap tear from the medial to patellar facet, and moderate joint effusion. He attributed appellant’s patellar tendinitis, patellofemoral pain syndrome, and partial tear of the patellar tendon to walking while hauling heavy mailbags at work, noting that patellar tendinitis and patellofemoral pain syndrome developed from overuse without a specific injury, and that a patellar tendon tear occurred from either trauma or tendon weakness. As appellant did not have a history of trauma, he found that her patellar tendon tear was causally related to work-related patellar tendinitis. While Dr. Homb found that she sustained patellar tendinitis, patellofemoral pain syndrome, and a partial patellar

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<sup>9</sup> See *M.K.*, Docket No. 16-1772 (issued February 6, 2017).

<sup>10</sup> See *T.F.*, 58 ECAB 128 (2006) (a medical report is of limited probative value on a given medical question if it is unsupported by medical rationale).

<sup>11</sup> See *E.A.*, 58 ECAB 677 (2007).

<sup>12</sup> *Deborah L. Beatty*, 54 ECAB 334 (2003) (the checking of a box marked “yes” in a form report, without additional explanation or rationale, is insufficient to establish causal relationship).

tendon tear due to carrying heavy mailbags while walking, he did not explain, with reference to the specific facts of the case, how such activity resulted in her knee condition. A physician's opinion must be expressed in terms of a reasonable degree of medical certainty and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and claimant's specific employment factors.<sup>13</sup>

As appellant has not provided a rationalized medical opinion supporting causal relationship, she has not met her burden of proof.<sup>14</sup>

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 and 20 C.F.R. §§ 10.605 through 10.607.

**CONCLUSION**

The Board finds that appellant has not met her burden of proof to establish a left knee condition causally related to factors of her federal employment.

**ORDER**

**IT IS HEREBY ORDERED THAT** the September 29, 2016 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: July 3, 2017  
Washington, DC

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

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

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

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<sup>13</sup> See *S.D.*, 58 ECAB 713 (2007).

<sup>14</sup> See *G.G.*, Docket No. 16-0907 (issued March 20, 2017).