

FACTUAL HISTORY

On October 5, 2015 appellant, then a 59-year-old mail handler, filed an occupational disease claim (Form CA-2) alleging that she developed chondromalacia of the condyle of the left knee as well as a meniscal injury due to prolonged weight bearing on hard surfaces and cumulative forces.

Appellant noted on July 6, 2015 while at home she felt a slight pull behind her left knee after pulling some weeds. She also stepped off a 16-inch wall around the same time. Appellant continued to experience the pulling sensation at work. On July 19, 2015 she had increased knee pain while moving pallets of mail at work. By the end of her shift on July 19, 2015, appellant experienced excruciating knee pain when she walked or turned. She sought medical attention on July 21, 2015 and diagnostic testing showed a meniscal flap tear. Appellant noted working at the employing establishment for more than 26 years and described her work duties as walking, carrying, and pushing very heavy loads on a cement floor. She attributed her knee condition to cumulative forces and prolonged weight bearing on the cement floor.

On July 23, 2015 appellant underwent a left knee magnetic resonance imaging (MRI) scan which demonstrated a radial flap tear of the posterior horn of the medial meniscus of the left knee, chondromalacia along the medial facet of the patella, and small left knee joint effusion with an associated popliteal cyst.

Appellant underwent a left knee arthroscopy on August 6, 2015 with partial medial and lateral meniscectomies, and synovectomy of the anterior medial and lateral compartments. She also demonstrated microfracture of the medial femoral condyle.

In a letter dated April 21, 2016, OWCP requested additional factual and medical information in support of appellant's occupational disease claim. It afforded her 30 days for a response.

The employing establishment responded on May 4, 2016 and agreed with appellant's description of her job duties. It noted that, as a mail handler, appellant moved equipment which weighed over 500 pounds on an average of six to eight hours a day. She was required to pull and push the equipment.

By decision dated July 8, 2016, OWCP denied appellant's claim finding that she failed to submit medical evidence establishing a causal relationship between her diagnosed condition and her employment duties. It noted that the medical evidence of record did not address the issue of causal relationship. On June 16, 2016 counsel requested an oral hearing from OWCP's Branch of Hearings and Review regarding this decision.

In a note dated July 21, 2015, Dr. Morgan Flaherty, a Board-certified internist, noted that Prednisone did not help appellant's left knee pain. He noted that, after appellant weeded and gardened on July 4, 2015, her left knee became painful medially in the front. Dr. Flaherty reported that appellant jumped off a two foot wall and was kneeling frequently. He also mentioned that since appellant's return to work she was pushing and pulling heavy objects which

made her left knee pain worse. Appellant's knee was painful when ascending and descending stairs. Dr. Flaherty indicated that appellant's condition was either a meniscal tear or tendinitis.

Appellant testified during the oral hearing before an OWCP hearing representative held on February 14, 2017. She noted that she did not realize her left knee condition was caused or aggravated by her employment until after her surgery. Appellant described her left knee injury over the July 4, 2015 weekend while gardening and pulling weeds. She felt a little pull in the back of her knee. Appellant first experienced left knee pain in July 2015. She retired from the employing establishment in July 2016 after 27 years as a mail handler. Appellant noted that her work duties involved walking on a cement floor, and using pallet jacks to move pallets of trays. She testified that the pallet jacks weighed approximately 300 pounds.

Following the oral hearing, appellant submitted additional factual information regarding her work duties. She further described the pallet jacks as weighing over 700 pounds and having a load capacity between 2,200 and 2,750 pounds. Appellant asserted that the pallet jacks were manually moved across the workroom floor. She noted that on July 18 and 19, 2015 she was moving pallet jacks approximately 50 feet and that the pallet jacks had a loaded weight of approximately 900 pounds. Appellant alleged that she moved approximately 30 pallet jack loads in a single work night. She described tuning and twisting to place the pallet jack in a confined area.

In a note dated March 1, 2017, Dr. Spiro N. Papas, a Board-certified orthopedic surgeon, opined that appellant had aggravated a preexisting left knee condition at work. He first examined appellant on July 30, 2015 and noted her employment duties of working in a warehouse at the employing establishment performing heavy lifting and pulling. Dr. Papas indicated that appellant had difficulty performing her job duties in July 2015.

Dr. Flaherty completed a report on March 12, 2017. He opined that appellant's initial knee injury occurred around July 6, 2015 while performing strenuous tasks in her home garden. On July 10, 2015 Dr. Flaherty noted mild knee pain. However, on July 21, 2015 appellant reported that the pain had significantly worsened after returning to work on July 18, 2015. Appellant also reported swelling in the left knee after July 18, 2015. On examination he found tenderness of the left knee as opposed to the minimal discomfort she exhibited on July 10, 2015. Dr. Flaherty listed appellant's work duties on July 18 and 19, 2015 as operating pallet trucks weighing over 2,000 pounds. He opined:

“Maneuvering such a load would require significant torque forces that in large part originate from the musculature of the knee joints. A vulnerable knee joint structure could become torn by the repeated application of such torque forces. It is my professional opinion that the patient's medical chronology supports the claim that her initial left knee injury was more likely a strain injury to meniscal structures while gardening that subsequently transformed into meniscal tears while on duty maneuvering heavy pallet trucks.”

By decision dated April 24, 2017, OWCP's hearing representative found that appellant had established that the employment activities occurred as alleged, but denied appellant's claim

as the medical evidence of record did not explain how work factors caused or contributed to the diagnosed condition.

LEGAL PRECEDENT

An employee seeking benefits under FECA³ 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, including the fact that the individual is an “employee of the United States” within the meaning of FECA, that the claim was timely filed within the applicable time limitation period of FECA, that an injury was sustained 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

OWCP’s regulations define an occupational disease as a condition produced by the work environment over a period longer than a single workday or shift.⁵ 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; (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that 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.⁶

A medical report is of limited probative value on a given medical question if it is unsupported by medical rationale.⁷ Medical rationale includes a physician’s detailed opinion on the issue of whether there is a causal relationship between the claimant’s diagnosed condition and the implicated employment activity. The opinion of the physician must be based on a complete factual and medical background of the claim, 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 specific employment activity or factors identified by the claimant.⁸ The belief of a claimant that a condition was caused or aggravated by the employment is insufficient to establish causal relationship.⁹

³ *Id.*

⁴ *Kathryn Haggerty*, 45 ECAB 383, 388 (1994).

⁵ 20 C.F.R. § 10.5(q).

⁶ *Victor J. Woodhams*, 41 ECAB 345 (1989); *see also J.H.*, Docket No. 16-1329 (issued June 23, 2017).

⁷ *T.F.*, 58 ECAB 128 (2006).

⁸ *A.D.*, 58 ECAB 149 (2006).

⁹ *Lourdes Harris*, 45 ECAB 545, 547 (1994).

ANALYSIS

The Board finds that appellant has failed to meet her burden of proof to establish left knee meniscal injury and chondromalacia causally related to factors of her federal employment.

Appellant filed an occupational disease claim alleging that she developed her diagnosed left knee conditions due to work activities on July 18 and 19, 2015. She reported her initial knee pain developed on the holiday weekend of July 4, 2015 while gardening and that her pain was then aggravated or accelerated by her work duties. OWCP accepted that appellant's employment duties included moving pallets of mail with a pallet jack for six to seven hours during a work shift. The weight of a loaded pallet jack has variously been described in the record as over 500 pounds by the employing establishment and between 300 and 2,750 pounds by appellant.

Appellant submitted medical evidence from Drs. Papas and Flaherty in support of her claimed work-related aggravation or acceleration of her left knee conditions. Dr. Papas completed a note on March 1, 2017 opining that appellant's work had aggravated her left knee conditions. He provided a limited description of her job duties noting that she worked in a warehouse at the employing establishment performing heavy lifting and pulling. While this report includes an opinion on the causal relationship between appellant's diagnosed conditions and her employment, Dr. Papas failed to provide medical reasoning explaining how and why appellant's left knee conditions were related to her employment duties through aggravation or acceleration. Given that appellant's initial left knee injury occurred at home, further explanation regarding the relationship between her condition and her employment is necessary. A mere conclusion without the necessary rationale is insufficient to meet appellant's burden of proof in her occupational disease claim.¹⁰

In his March 12, 2017 report, Dr. Flaherty advised that appellant's initial knee injury occurred at home in the beginning of July 2017. He noted that appellant initially reported mild left knee pain during examination on July 10, 2015. Appellant returned to work on July 18 and 19, 2015 and Dr. Flaherty described her work duties on those dates as operating pallet jacks weighing over 2,000 pounds. Dr. Flaherty examined appellant on July 21, 2015 and found that she had left knee tenderness as opposed to the minimal discomfort she exhibited on July 10, 2015. He explained that moving 2,000-pound pallet jacks would place "significant torque forces" on appellant's knee joints. Dr. Flaherty noted, "A vulnerable knee joint structure could become torn by the repeated application of such torque forces." He concluded that appellant's prior knee strain was transformed into meniscal tears while maneuvering heavy pallet trucks at work. While Dr. Flaherty opined that appellant's left knee condition was aggravated or accelerated by employment factors and provided some reasoning in support of his claim, the Board finds that his report is insufficient to meet appellant's burden of proof. Dr. Flaherty's report is based on the pallet jacks weighing 2,000 pounds rather than the 500 pounds confirmed by the employing establishment. Furthermore, his report is speculative noting that a knee could become torn by moving pallet jacks. An award of compensation may not be based on surmise, conjecture, speculation, or upon appellant's own belief that there is causal relationship between

¹⁰ *D.R.*, Docket No. 16-0528 (issued August 24, 2016).

her claimed condition and her employment.¹¹ The Board finds that the medical opinion evidence is not based on a complete factual background and does not contain sufficient rationalized medical opinion evidence to meet appellant's burden of proof.

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 failed to meet her burden of proof to establish that her left knee meniscal tears and chondromalacia were causally related to factors of her federal employment.

ORDER

IT IS HEREBY ORDERED THAT the April 24, 2017 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: November 8, 2017
Washington, DC

Patricia H. Fitzgerald, Deputy Chief Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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

¹¹ *R. W.*, Docket No. 15-0345 (issued September 20, 2016); *Robert A. Boyle*, 54 ECAB 381 (2003).