United States Department of Labor
Employees' Compensation Appeals Board

E.W., Appellant	)	
and	)	**Docket No. 18-0879**
	)	**Issued: December 13, 2018**
U.S. POSTAL SERVICE, POST OFFICE, Minneapolis, MN, Employer	)	

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

Case Submitted on the Record

DECISION AND ORDER

Before:
PATRICIA H. FITZGERALD, Deputy Chief Judge
ALEC J. KOROMILAS, Alternate Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On March 19, 2018 appellant filed a timely appeal from a February 8, 2018 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act[1] (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 met her burden of proof to establish a right knee condition causally related to the accepted June 10, 2017 employment incident.

FACTUAL HISTORY

On July 14, 2017 appellant, then a 45-year-old rural carrier, filed a traumatic injury claim (Form CA-1) alleging that she sustained a right knee injury while at work on June 10, 2017. She explained that when she stepped out of her vehicle that day she felt pain in her right knee and that

[1] 5 U.S.C. § 8101 *et seq.*

the pain increased as she continued on her route. Appellant did not indicate that she had stopped work.

By development letter dated July 26, 2017, OWCP advised appellant that additional factual and medical evidence was necessary to establish her traumatic injury claim. It afforded her 30 days to submit the necessary evidence.

Appellant subsequently submitted a June 28, 2017 narrative statement, explaining that she was initially advised to file a notice of occupational disease (Form CA-2) following the claimed June 10, 2017 employment incident. She provided a copy of a July 6, 2017 occupational disease claim form, which noted the June 10, 2017 employment incident and also noted that she had previously injured her right knee in June 2016.[2]

In a June 13, 2017 report, Dr. Heather R. Cichanowski, a Board-certified family practitioner, noted that appellant had a "June 4, 2017" work-related injury. She provided work restrictions for the right knee and requested a magnetic resonance imaging (MRI) scan.

In an August 15, 2017 report, Dr. Cichanowski noted that she originally saw appellant on June 8, 2016 for right leg and knee pain. Appellant reported that in June 2016, she had stepped out of a motor vehicle at work and felt her leg roll. She went to the emergency room the next morning and an ultrasound showed a Baker's cyst. Dr. Cichanowski stated that on June 8 and 13, 2016, she diagnosed a right Baker's cyst and right medial meniscus derangement and that appellant had reached maximum medical improvement on January 11, 2017. She indicated that she next saw appellant on June 13, 2017 and that appellant reported that she left work on Saturday and her right knee began to hurt and she was limping. Dr. Cichanowski opined that appellant had reaggravated her medial meniscus from the June 2016 work injury. She noted that clinically most medial meniscus derangements do not completely heal and, while a derangement can improve over time, they can get reaggravated. Dr. Cichanowski requested an MRI scan and reiterated her opinion that appellant's current knee symptomatology was a reaggravation of the June 2016 work injury.

By decision dated August 30, 2017, OWCP denied appellant's traumatic injury claim. It found that she had not established that the claimed June 10, 2017 employment incident occurred as alleged. As such, OWCP found that appellant had not established an injury as defined under FECA.

Appellant subsequently submitted a copy of an August 21, 2017 right knee MRI scan report, which revealed radial tear posterior horn right knee medial meniscus, intracruciate anterior cruciate ligament (ACL) ganglion cyst, tricompartmental right knee chondrosis, small right knee joint effusion and moderate-sized Baker's cyst.

In an August 28, 2017 report, Dr. Cichanowski indicated that appellant was seen for a follow-up of right Baker's cyst and right medial meniscus derangement from a June 2016 work injury. The results of appellant's June 13 and August 3, 2017 visits were recorded along with the results of the August 21, 2017 right knee MRI scan and examination findings. Dr. Cichanowski

[2] Appellant claimed a right knee injury on June 5, 2016 under OWCP file number xxxxxx167.

provided an assessment of right Baker's cyst, right medial meniscus derangement and right knee osteoarthritis. She opined that appellant's current knee pain was exacerbated by the June 2016 work injury. Dr. Cichanowski continued appellant on work restrictions.

In an August 30, 2017 report, Dr. Gregory R. Hildebrand, an orthopedic surgeon, indicated that appellant had two different right knee injuries, one on "June 4, 2016" and the other on June 10, 2017, when she twisted her knee while getting out of her mail truck. He noted that a June 8, 2016 right knee x-ray showed evidence of an effusion and early osteophyte formation within the proximal patella and medial aspect of the notch.[3] The August 21, 2017 right knee MRI scan showed a radial tear in the posterior horn of the medial meniscus, areas of grade 3-4 chondral changes, and a large Baker's cyst. Dr. Hildebrand provided an impression of right knee pain, right knee complex medial meniscus tear, and right knee chondral loss. On September 6, 2017 appellant underwent a right knee arthroscopic partial meniscectomy and chondroplasty, which Dr. Hildebrand performed.

On September 14, 2017 appellant requested a review of the written record by an OWCP hearing representative.

By decision dated February 8, 2018, an OWCP hearing representative modified the prior decision to reflect that fact of injury was established. However, the claim remained denied as the evidence of record was insufficient to establish a right knee condition causally related to the accepted June 10, 2017 employment incident.

LEGAL PRECEDENT

An employee seeking benefits under FECA[4] 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.[5] 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.[6]

In order to determine whether an employee actually sustained an injury in the performance of duty, OWCP begins with an analysis of whether fact of injury has been established. Generally, fact of injury consists of two components which must be considered in conjunction with one another. The first component to be established is that the employee actually experienced the employment incident which is alleged to have occurred.[7] The second component is whether the

[3] The Board notes that the case record does not contain a copy of a June 8, 2016 x-ray report.

[4] *Supra* note 1.

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

[6] *Michael E. Smith*, 50 ECAB 313 (1999).

[7] *Elaine Pendleton*, *supra* note 5.

employment incident caused a personal injury and generally can be established only by medical evidence.

Rationalized medical opinion evidence is required to establish causal relationship.[8] The opinion of the physician must be based on a complete factual and medical background of the claimant, 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.[9]

ANALYSIS

The Board finds that appellant has not established a right knee condition causally related to the accepted June 10, 2017 employment incident.

Dr. Cichanowski initially treated appellant for a prior knee injury from June 2016 wherein she had diagnosed a right Baker's cyst and right medial meniscus derangement. In her August 15, 2017 report, she opined that appellant had reaggravated her right knee medial meniscus from the June 2016 work injury. Dr. Cichanowski did not provide a history of the accepted June 10, 2017 employment incident, but rather explained that appellant had experienced knee pain on the Saturday prior to June 13, 2017 after she got off work. At best, Dr. Cichanowski provided a limited history of injury.[10] While she also noted that clinically most medial meniscus derangements did not fully heal and could get reaggravated, Dr. Cichanowski did not provide an opinion as to how physiologically appellant's right knee medial meniscus derangement from the prior injury was reaggravated when appellant stepped out of her work vehicle on June 10, 2017. She offered only a general conclusion on causal relationship. A mere conclusion without necessary rationale explaining why the physician believes that a claimant's accepted employment incident resulted in the diagnosed condition is insufficient.[11]

In her August 28, 2017 report, Dr. Cichanowski opined that appellant's current knee pain was exacerbated by the June 2016 work incident. However, she did not provide a history of appellant's June 10, 2017 employment incident or an opinion relating appellant's current

[8] *S.F.*, Docket No. 18-0296 (issued July 26, 2018).

[9] *James Mack*, 43 ECAB 321 (1991).

[10] *See Frank Luis Rembisz*, 52 ECAB 147 (2000) (medical opinions based on an incomplete history have little probative value).

[11] *See C.P.*, Docket No. 18-0665 (issued November 8, 2018).

diagnosed condition to the accepted June 10, 2017 employment incident.[12] As such, her reports are of limited probative value on the issue of causal relationship.

In his August 30, 2017 report, Dr. Hildebrand accurately noted the history of injury, reviewed diagnostic testing, and provided an impression of right knee pain, right knee complex medial meniscus tear, and right knee chondral loss. However, he did not provide an opinion on the cause of appellant's conditions. The Board has held that medical evidence that does not offer any opinion regarding the cause of an employee's condition is of no probative value on the issue of causal relationship.[13]

The remaining evidence of record is also insufficient to establish causal relationship between appellant's right knee conditions and the accepted June 10, 2017 employment incident. Appellant submitted an August 21, 2017 right knee MRI scan report; however, the Board has previously explained that diagnostic testing lacks probative value with regard to the issue of causal relationship as it does not offer any opinion regarding the cause of an employee's condition.[14]

On appeal, appellant argues that her right knee was reinjured while in the performance of duty. An award of compensation may not be based on surmise, conjecture, speculation, or on the employee's own belief of causal relationship.[15] Appellant's honest belief that her accepted employment incident caused her right knee injury, however sincerely held, does not constitute medical evidence sufficient to establish causal relationship.[16] In the instant case, the record lacks rationalized medical evidence establishing causal relationship between the June 10, 2017 employment incident and her diagnosed right knee conditions. Thus, appellant has not met her 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 not met her burden of proof to establish a right knee condition causally related to the accepted June 10, 2017 employment incident.

[12] *Supra* note 10.

[13] *See L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

[14] *See E.F.*, Docket No. 17-2005 (issued June 15, 2018).

[15] *D.D.*, 57 ECAB 734 (2006).

[16] *See J.S.*, Docket No. 17-0967 (issued August 23, 2017).

ORDER

IT IS HEREBY ORDERED THAT the February 8, 2018 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: December 13, 2018
Washington, DC

Patricia H. Fitzgerald, Deputy 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