



## **FACTUAL HISTORY**

On December 14, 2012 appellant, then a 61-year-old medical supply technician, filed a traumatic injury claim (Form CA-1). This form related that, on December 13, 2012, she sustained injuries to her left leg, arm, shoulder, and knee in the performance of duty when she was squeezed between racks of inventory. The form did not indicate whether appellant stopped work. OWCP paid appellant wage-loss compensation for intermittent disability on the supplemental rolls as of January 8, 2013.

OWCP accepted her claim for multiple contusions, left upper arm contusion, and left lower leg contusion.<sup>3</sup>

Appellant submitted an August 11, 2014 progress report from Dr. Rajy S. Abulhosn, a Board-certified family practitioner. Dr. Abulhosn related that he was asked to provide clarification regarding appellant's left shoulder condition. He noted diagnoses of multiple contusions of the left shoulder, left lower extremity, and back, and left shoulder bursal-sided tear of the supraspinatus and complete tear of the intraarticular biceps tendon. Dr. Abulhosn indicated that he initially examined appellant on December 14, 2012 and related a "mechanism of injury" that a metal rack slammed into her left shoulder, upper arm, knee, and lower leg area. He reported that initial examination of appellant's left shoulder showed tenderness to palpation and range of motion deficits. Dr. Abulhosn explained that after all conservative management was provided and appellant still complained of left shoulder pain, she underwent a left shoulder magnetic resonance imaging (MRI) scan, which confirmed the left shoulder tear.

In a December 29, 2014 progress report, Dr. Abulhosn noted a date of incident of December 13, 2012 and that appellant related no significant changes in her symptoms, with ongoing pain throughout the left side of her body, primarily in the left shoulder and knee. Upon physical examination he reported continued diffuse tenderness to palpation throughout appellant's left side, but focused more on the left shoulder and knee. Range of motion was decreased to both the left shoulder and knee. Dr. Abulhosn diagnosed status post multiple contusions occurring at work, including the left shoulder, left upper arm, back, and left lower extremity with persistent ongoing complaints and left shoulder injury with small, partial bursal-sided tear of the supraspinatus and complete tear of the biceps tendon.

OWCP also received a January 2, 2015 left knee MRI scan report from Dr. Anthony Chang, a Board-certified diagnostic radiologist, who noted chronic appearing osteochondral abnormalities at the posterior lateral femoral condyle and tibial plateau, soft tissue edema within the suprapatellar fat, and abnormal signal intensity within the body segment of the lateral meniscus possibly related to a nondisplaced vertical longitudinal tear.

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<sup>3</sup> Under OWCP File No. xxxxxx800, OWCP accepted that on October 8, 2013 appellant sustained a traumatic injury when she slipped and fell on a plastic bag while in the performance of duty. It accepted her claim for multiple contusions to the right elbow, forearm, and face; abrasion or friction burn of the left leg; and right rotator cuff sprain. Under OWCP File No. xxxxxx198, appellant filed an occupational disease claim (Form CA-2) alleging that she experienced stress and panic attacks as a result of working in a hostile work environment. That claim is currently under development. File Nos. xxxxxx800 and xxxxxx198 are not presently before the Board and will, therefore, not be addressed in this decision.

In a January 29, 2015 report, Dr. Abulhosn related that appellant continued to complain of pain in her affected body parts. Upon musculoskeletal examination, he reported that it was positive for joint pain, stiffness, muscle aches, and weakness. Dr. Abulhosn further noted tenderness to palpation in the left shoulder area and throughout the entire left side of her body. He diagnosed status post multiple contusions of the left shoulder, left upper arm, back, and left lower extremity, with persistent ongoing complaints, and left shoulder tear injury.

OWCP received a February 18, 2015 letter from appellant who requested that the diagnostic codes for her left knee injury be changed to match the results of the January 2, 2015 MRI scan, which showed a left knee tear. Appellant asserted that her left knee continued to cause her moderate-to-severe pain every day.

OWCP subsequently expanded acceptance of appellant's claim to include a left shoulder rotator cuff tear and sprain on March 2, 2015. On June 15, 2015 appellant underwent authorized left shoulder surgery. She stopped work and OWCP paid her wage-loss compensation. On August 10, 2015 appellant returned to full-time modified duty.

In an October 7, 2015 report, Dr. Jon Kelly, a Board-certified diagnostic radiologist, related appellant's complaints of pain in the left shoulder, low back, left knee, and right shoulder. Examination of appellant's left knee revealed an antalgic gait. Dr. Kelly recommended that appellant return to modified duty.

Dr. Kelly further noted in a November 18, 2015 report appellant's frustration that OWCP would not expand her claim to include the left knee. He indicated that appellant's symptoms had worsened since her last visit and there had been no change in the character or location of the problem. Upon physical examination of appellant's left knee, Dr. Kelly reported no effusion. He diagnosed left shoulder calcific tendinitis, left knee derangement of unspecified medial meniscus due to an old tear or injury, and low back pain. Dr. Kelly recommended that appellant return to modified duty.

In a letter dated December 7, 2015, appellant requested that OWCP expand her claim to accept torn tendons and meniscus tear of the left knee. She explained that on December 13, 2012 a heavy steel supply rack was slammed into the left side of her body, which caused chronic pain along the left side of her body. Appellant described the medical treatment she received for her back, left shoulder, and left knee. She listed the medical reports and diagnostic scan reports, which she alleged established torn tendons and a meniscus tear in her left knee.

On December 14, 2015 appellant stopped work again because the employing establishment was unable to accommodate her work restrictions. OWCP paid wage-loss compensation and placed appellant back on the periodic rolls.

In a December 30, 2015 progress report, Dr. Kelly noted that appellant was frustrated about the lack of progress regarding authorization for treatment. He related appellant's complaints of continued left knee and back pain despite physical therapy treatment. Upon examination of appellant's left knee, Dr. Kelly noted pain at the patellofemoral joint and medial joint line and medial crepitus. Examination of the lumbar spine showed file lumborum tenderness and limited flexion. Dr. Kelly diagnosed calcific tendinitis of the left shoulder, left

knee cystic meniscus, other medial meniscus, right knee medial meniscus tear confirmed by MRI scan, lumbar spine pain, left hip gluteal buttock pain, and right shoulder pain.

By letter dated January 14, 2016, OWCP advised appellant that the evidence submitted was insufficient to establish that it should expand her claim to include a left knee meniscal tear. It requested additional medical evidence to establish a diagnosed left knee condition causally related to the accepted December 13, 2012 employment incident. Appellant was afforded 30 days to submit the additional evidence. A similar letter was sent to Dr. Kelly.

In a February 10, 2016 report, Dr. Kelly related appellant's complaints of left shoulder, left knee, and low back pain as a result of the initial injury. He described that appellant was struck with significant force by a rack, which was being pushed by a coworker. Upon physical examination, Dr. Kelly reported tenderness in the left knee and lumbar spine. He diagnosed left shoulder calcific tendinitis, low back pain, and left knee derangement of the unspecified medial meniscus due to an old tear or injury. Dr. Kelly indicated that appellant could return to modified duty.

Dr. David C. Majors, Board-certified in physical medicine and rehabilitation, noted in a February 16, 2016 progress report that appellant was seen for follow-up examination for complaints of neck pain, increase in low back pain radiating down to the lateral thigh, lateral left knee, and calf, left knee pain that worsened with prolonged standing and walking, and left shoulder pain. He reviewed appellant's history and conducted an examination. Dr. Majors reported moderate tenderness to palpation of the lumbar paraspinal muscles and limited range of motion of the lumbar spine. He indicated that sensation to light touch was diminished throughout the left lower extremity. Dr. Majors noted that lower extremity deep tendon reflexes were within normal limits bilaterally. He diagnosed left shoulder rotator cuff tear and superior labral tear, cervical strain, lumbar strain, and lumbar radiculitis.

In a March 23, 2016 report, Dr. Kelly related appellant's complaints of bilateral shoulder, left knee, and low back pain. He indicated that appellant's left knee and back remained the most significant issues. Upon physical examination of appellant's left knee, Dr. Kelly reported tenderness along the medial joint line and pain with McMurray testing. He diagnosed calcific tendinitis of the left shoulder, pain in left shoulder, derangement of unspecified medial meniscus due to old tear or injury of the left knee, and low back pain. Dr. Kelly concluded that appellant's condition had not improved significantly.

By letter dated March 25, 2016, OWCP informed appellant that it had reviewed Dr. Kelly's medical reports in order to determine whether it should expand her claim to include additional diagnoses of the lumbar spine and left knee. It advised appellant that the medical reports submitted were insufficient to establish that her diagnosed lumbar and left knee conditions were causally related to the accepted December 13, 2012 employment injury. OWCP requested additional information and evidence to establish her request to expand her claim. Appellant was afforded 30 days to submit the necessary evidence.

On April 14, 2016 OWCP received appellant's letter dated April 5, 2016 in which she asserted that OWCP's March 25, 2016 letter contained factually incorrect information. Appellant explained that she was not "squeezed" between racks of inventory, but that another

employee slammed a supply rack into her left side at work. She alleged that the employee provided a false version of the December 13, 2012 work injury to her supervisor while she was getting medical treatment in the emergency room. Appellant asserted that MRI scans showed a torn rotator cuff of her left shoulder and meniscus tear of her left knee. She related that she continued to experience severe, chronic pain from these injuries. Appellant alleged that her treating physicians, Drs. Abulhosn and Kelly, each diagnosed torn meniscus of her left knee as being directly caused by the December 13, 2012 employment injury. She requested that OWCP review Dr. Kelly's December 30, 2015 and February 10, 2016 reports.

By decision dated April 25, 2016, OWCP denied expansion of appellant's claim to include an additional left knee meniscus tear condition. It found that the medical evidence of record was insufficient to establish that her left knee condition was causally related to the accepted December 13, 2012 employment injury. OWCP determined that Dr. Kelly failed to provide a rationalized medical opinion explaining how her left knee condition resulted from the December 13, 2012 employment incident.

Following the April 25, 2016 decision, OWCP received a March 29, 2016 report by Dr. Fernando Kwiatkowski, Board-certified in psychiatry and neurology, who related appellant's history of depression and anxiety as a result of harassment at work. Dr. Kwiatkowski reviewed appellant's history and provided his examination findings. He diagnosed post-traumatic stress disorder and major depressive disorder related to finances and occupation.

Appellant submitted a May 4, 2016 report by Dr. Kelly who indicated that "it is the left knee which had been struck by the metal rack on the day of injury, and the knee pain has been present since that time." He noted a date of injury of December 13, 2012 and explained that the confusion appeared to stem from the fact that both of appellant's knees were injured during the work accident. Dr. Kelly related appellant's complaints of continued bilateral shoulder, left knee, and lumbar pain with no significant changes in the current symptoms. He reviewed appellant's history and conducted an examination. Dr. Kelly reported no crepitus, effusion, swelling, or ecchymosis upon inspection of appellant's left knee. Sensation was intact and strength was normal. Dr. Kelly diagnosed "left knee medial meniscus tear due to impact by metal cart on date of injury." He also noted diagnoses of left shoulder calcific tendinitis, right knee strain, lumbar spine pain and strain, and left hip radiculopathy. Dr. Kelly indicated that appellant's condition had not significantly improved and that she could work modified duty.

On May 27, 2016 appellant requested a review of the written record before an OWCP hearing representative. She submitted various handwritten progress notes dated April 30, 2015 to May 16, 2016 from an unknown provider.

Appellant provided a May 22, 2016 statement and noted that she was enclosing a new medical report dated May 4, 2016 from Dr. Kelly as additional evidence to support the expansion of her claim to include left knee meniscus tear. She alleged that she sustained tears in her left shoulder, a torn meniscus in her left knee, and injuries to her back and other areas, including her left upper arm when a coworker slammed a heavy steel supply rack into the left side of her body. Appellant described the medical treatment that she received for her various conditions. She explained that, after unsatisfactory recovery following physical therapy treatment, she underwent a left knee MRI scan, which revealed a torn meniscus. Appellant noted that in his May 4, 2016

report, Dr. Kelly attributed appellant's left knee meniscus tear due to impact by a metal cart on the date of injury. She related that her knee had never been injured and she never experienced left knee pain before the December 13, 2012 employment injury. Appellant asserted that all of the evidence overwhelmingly supported her claim of the left knee meniscus tear occurring on December 13, 2012. She resubmitted Dr. Kelly's May 4, 2016 report.

In a June 2, 2016 left knee MRI scan report, Dr. Brian J. Moffit, Board-certified in diagnostic radiology and neuroradiology, noted mild-to-moderate sized tear involving the mid-zone segment of the lateral meniscus and mild-to-moderate osteochondral damage over the posterior aspects of the lateral femoral condyle and lateral tibial plateau.

OWCP also received a June 8, 2016 report by Dr. Kelly who related that appellant continued to complain of pain in all body parts, but primary pain was in her left knee. Dr. Kelly noted that he reviewed appellant's most recent left knee MRI scan, which revealed a tear along the joint line in the region of the lateral meniscus tear. Appellant confirmed that this was the area of the knee where she experienced left knee pain. Dr. Kelly reviewed appellant's history and conducted an examination. He reported tenderness to palpation in the posterior lateral aspect of the left knee along the joint line and over the medial femoral condyle. Dr. Kelly diagnosed other tear of the lateral meniscus of the left knee, left shoulder impingement syndrome, left shoulder bursitis, calcific tendinitis, and bicipital tendinitis, low back pain, left hip pain, and right shoulder unspecified rotator cuff tear. He noted that appellant's left knee lateral meniscus tear was aggravated by impact by metal cart on the date of injury.

In a July 20, 2016 progress report, Dr. Kelly noted a date of injury of December 13, 2012. He related that appellant presented for left shoulder pain, low back pain, and left knee pain. Dr. Kelly noted that appellant's symptoms appeared to have worsened since the last visit. He reviewed appellant's history and conducted an examination. Dr. Kelly reported tenderness to palpation along the patellofemoral and patellolateral joint of appellant's left knee. He diagnosed left knee tear of the lateral meniscus, left shoulder impingement syndrome, left shoulder bursitis, left shoulder calcific tendinitis, left shoulder bicipital tendinitis, right shoulder unspecified rotator cuff tear, not specified as traumatic, low back pain, and left hip pain. Dr. Kelly related that appellant had left knee lateral meniscus tear "aggravated by impact by metal cart on date of injury."

By decision dated November 14, 2016, an OWCP hearing representative affirmed the April 25, 2016 decision. She found that the medical evidence of record was insufficient to establish expansion of appellant's claim to include left knee meniscal tear condition causally related to the accepted December 13, 2012 employment injury.

### **LEGAL PRECEDENT**

Where an employee claims that a condition not accepted or approved by OWCP was due to an employment injury, he or she bears the burden of proof to establish that the condition is causally related to the employment injury.<sup>4</sup> To establish causal relationship between the condition as well as any attendant disability claimed and the employment injury, an employee

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<sup>4</sup> *Jaja K. Asaramo*, 55 ECAB 200 (2004).

must submit rationalized medical evidence based on a complete medical and factual background supporting such causal relationship.<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> 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>7</sup> Neither the fact that a disease or condition manifests itself during a period of employment, nor the belief that the disease or condition was caused or aggravated by employment factors or incidents, is sufficient to establish causal relationship.<sup>8</sup>

### ANALYSIS

OWCP accepted that on December 13, 2012 appellant sustained injuries to her left leg, arm, shoulder, and knee in the performance of duty. Appellant's claim was accepted for multiple contusions to the left upper arm and left lower leg and for left shoulder rotator cuff tear and sprain. On December 16, 2015 she requested that OWCP expand her claim to include a left knee meniscal tear. OWCP denied appellant's request to expand her claim finding insufficient medical evidence to establish that her left knee condition was causally related to the accepted employment injury.

The Board finds that appellant has not met her burden of proof to establish that her left knee meniscal tear resulted from the accepted December 13, 2012 employment injury.

Appellant received medical treatment from Dr. Abulhosn who related in reports dated August 11, 2014 to January 29, 2015 that he initially examined appellant on December 14, 2012. Dr. Abulhosn noted appellant's history of injury that a metal rack slammed into her left shoulder, upper arm, knee, and lower leg area. He provided examination findings and diagnosed status post multiple contusions of the left shoulder, left upper arm, back, and left lower extremity, with persistent ongoing complaints, and left shoulder tear injury. Dr. Abulhosn did not, however, provide any rationalized medical explanation regarding the cause of these conditions, nor did he not relate appellant's diagnosed conditions to the December 13, 2012 employment injury. The Board has found that medical evidence that 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>9</sup>

Likewise, the additional diagnostic reports, including Dr. Chang's January 2, 2015 and Dr. Moffit's June 2, 2016 left knee MRI scan reports also provided no opinion on the cause of appellant's left knee condition. Medical evidence of diagnostic testing is of limited probative

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<sup>5</sup> *M.W.*, 57 ECAB 710 (2006); *John D. Jackson*, 55 ECAB 465 (2004).

<sup>6</sup> *I.R.*, Docket No. 09-1229 (issued February 24, 2010); *D.I.*, 59 ECAB 158 (2007).

<sup>7</sup> *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 465 (2005).

<sup>8</sup> *Jennifer Atkerson*, 55 ECAB 317 (2004).

<sup>9</sup> *R.E.*, Docket No. 10-679 (issued November 16, 2010); *K.W.*, 59 ECAB 271 (2007).

value as it fails to provide a physician's opinion on the causal relationship between appellant's work incident and the diagnosed conditions.<sup>10</sup> These reports, therefore, fail to establish causal relationship.

In support of her request for expansion of acceptance of her claim to include her left knee condition, appellant submitted various reports dated October 7, 2015 to July 20, 2016 from Dr. Kelly. Dr. Kelly related appellant's complaints of ongoing pain in her left knee. He reported that examination of appellant's left knee revealed pain at the patellofemoral joint and medial joint line and medial crepitus. In a May 4, 2016 report, Dr. Kelly noted a date of injury of December 13, 2012 and related that appellant's left knee was struck by a metal rack. He indicated that appellant's knee pain had persisted since that time. Dr. Kelly further related in reports dated June 8 and July 20, 2016 that a left knee MRI scan revealed a tear along the joint line of the lateral meniscus tear. He diagnosed left knee lateral meniscus tear and reported that appellant's left knee tear was "aggravated by impact by metal cart on the date of injury."

Dr. Kelly provided an accurate description of the December 13, 2012 employment injury and diagnosed a left knee condition based on examination findings. Although he provided an affirmative opinion that appellant's left knee meniscal tear was aggravated by the December 13, 2012 employment injury, he provided no rationale for his opinion.<sup>11</sup> The Board has held that a medical report is of limited probative value on the issue of causal relationship if it contains a conclusion regarding causal relationship which is unsupported by medical rationale.<sup>12</sup> A physician must provide a narrative description of the identified employment incident and a reasoned opinion on whether the employment incident described caused or contributed to appellant's diagnosed medical condition.<sup>13</sup> A reasoned medical opinion is particularly necessary in this case, since Dr. Kelly did not provide his affirmative opinion on causal relationship until almost four years after the December 13, 2012 employment injury. Because Dr. Kelly failed to provide adequate medical rationale explaining how the accepted December 13, 2012 employment injury contributed to or aggravated her left knee condition, his reports are insufficient to establish appellant's claim.

Dr. Majors' February 16, 2016 report is also insufficient to support expansion of appellant's claim as he did not mention any left knee condition. He diagnosed left shoulder rotator cuff tear, cervical strain, lumbar strain, and lumbar radiculitis. Similarly, Dr. Kwiatkowski's March 29, 2016 report described appellant's treatment for psychological and mental disorders and did not mention any left knee injury.

On appeal appellant alleges that OWCP's decision was based on factually incorrect information. She further relates that three doctors had diagnosed her left knee torn meniscus as caused by the December 13, 2012 employment injury. The Board notes that Dr. Kelly accurately described that appellant was struck by a metal rack on December 13, 2012 at work. However, as

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<sup>10</sup> See *G.C.*, Docket No. 17-0675 (issued June 15, 2017).

<sup>11</sup> See *A.C.*, Docket No. 16-1506 (issued January 5, 2017).

<sup>12</sup> *T.M.*, Docket No. 08-975 (issued February 6, 2009); *S.E.*, Docket No. 08-2214 (issued May 6, 2009).

<sup>13</sup> *John W. Montoya*, 54 ECAB 306 (2003).

previously explained, the medical evidence of record fails to establish that appellant sustained a torn left knee meniscus as a result of the accepted December 13, 2012 employment injury. Because appellant has failed to provide such evidence, she has not met her burden of proof to establish her claim.<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(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 left knee meniscal tear causally related to the accepted December 13, 2012 employment injury.

**ORDER**

**IT IS HEREBY ORDERED THAT** the November 14, 2016 merit decision of the Office of Workers' Compensation Programs is affirmed.

Issued: February 2, 2018  
Washington, DC

Christopher J. Godfrey, Chief Judge  
Employees' Compensation Appeals Board

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

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

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<sup>14</sup> *Supra* note 4.