

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

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<b>H.M., Appellant</b>	)	
	)	
<b>and</b>	)	<b>Docket No. 18-0303</b>
	)	<b>Issued: July 16, 2018</b>
<b>U.S. POSTAL SERVICE, POST OFFICE,</b>	)	
<b>Charlotte, NC, Employer</b>	)	
_____	)	

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

*Case Submitted on the Record*

**DECISION AND ORDER**

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

**JURISDICTION**

On November 27, 2017 appellant filed a timely appeal from an October 23, 2017 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 to consider the merits of this case.

**ISSUE**

The issue is whether appellant met her burden of proof to establish a right knee condition causally related to the accepted September 13, 2017 employment incident.

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

## **FACTUAL HISTORY**

On September 13, 2017 appellant, then a 31-year-old city carrier, filed a traumatic injury claim (Form CA-1) alleging that on that date she sustained a right knee contusion when she hit her knee on the steel corner of the loading dock. She did not stop work.

In a September 13, 2017 work status note, William Carlton Cabaniss, a certified physician assistant, diagnosed right knee contusion and provided work restrictions.

In a development letter dated September 19, 2017, OWCP advised appellant that additional evidence was needed to establish her claim. This included a narrative medical report from a physician, which provided a diagnosis and an opinion supported by a medical explanation as to how the reported work incident caused or aggravated a medical condition. OWCP afforded appellant 30 days to submit the requested medical evidence.

In a September 13, 2017 report, Mr. Cabaniss noted that appellant was seen for complaints of right knee pain since a September 13, 2017 work injury. Appellant related that the injury was associated with blunt force trauma. A physical examination revealed abnormal right knee findings. Mr. Cabaniss diagnosed a right knee contusion and released appellant to return to work with restrictions.

A September 16, 2017 x-ray of the right knee read by Dr. James A. Cain, III, a diagnostic radiologist, revealed no fracture or other acute finding.

A September 16, 2017 report signed by Crystal Marie Clark, a certified physician assistant, diagnosed a right knee contusion. Ms. Clark provided a history of injury, reviewed an x-ray, and noted physical examination findings, which included right knee tenderness, abrasion and rash/small ecchymosis noted. She released appellant to return to duty that day with restrictions.

In September 13 and 16, 2017 work status notes and a September 16, 2017 patient clinical summary, Ms. Clark diagnosed right knee contusion and provided work restrictions. The record also contains a report dated September 23, 2017 and signed by Newton High, a physician assistant. Mr. High noted the history of injury, detailed examination findings, which included right knee tenderness, and diagnosed right knee contusion. He noted that appellant could return to work on October 2, 2017.

In a September 23, 2017 work status note, Mr. High diagnosed right knee contusion. He noted that appellant was currently not working and could return on October 2, 2017.

By decision dated October 23, 2017, OWCP denied appellant's traumatic injury claim. It accepted that the September 13, 2017 incident occurred as alleged, but denied the claim as appellant failed to establish that a medical condition was diagnosed in connection with the September 13, 2017 incident and; therefore, she did not establish an employment-related injury.

## LEGAL PRECEDENT

An employee seeking benefits under FECA<sup>2</sup> 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.<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 determine whether a federal employee has sustained a traumatic injury in the performance of duty it must first be determined whether fact of injury has been established.<sup>5</sup> First, the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time, place, and in the manner alleged.<sup>6</sup> Second, the employee must submit sufficient evidence, generally only in the form of medical evidence, to establish that the employment incident caused a personal injury.<sup>7</sup>

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence.<sup>8</sup> Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on whether there is causal relationship between the employee's diagnosed condition and the compensable employment factors.<sup>9</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>10</sup>

Certain healthcare providers such as physician assistants, nurse practitioners, physical therapists, and social workers are not considered "physician[s]" as defined under FECA.<sup>11</sup>

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<sup>2</sup> *Id.*

<sup>3</sup> *C.S.*, Docket No. 08-1585 (issued March 3, 2009); *Bonnie A. Contreras*, 57 ECAB 364 (2006).

<sup>4</sup> *S.P.*, 59 ECAB 184 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

<sup>5</sup> *B.F.*, Docket No. 09-0060 (issued March 17, 2009); *Bonnie A. Contreras*, *supra* note 3.

<sup>6</sup> *D.B.*, 58 ECAB 464 (2007); *David Apgar*, 57 ECAB 137 (2005).

<sup>7</sup> *C.B.*, Docket No. 08-1583 (issued December 9, 2008); *D.G.*, 59 ECAB 734 (2008); *Bonnie A. Contreras*, *supra* note 3.

<sup>8</sup> *Y.J.*, Docket No. 08-1167 (issued October 7, 2008); *A.D.* 58 ECAB 149 (2006); *D'Wayne Avila*, 57 ECAB 642 (2006).

<sup>9</sup> *J.J.*, Docket No. 09-0027 (issued February 10, 2009); *Michael S. Mina*, 57 ECAB 379 (2006).

<sup>10</sup> *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 345 (1989).

<sup>11</sup> 5 U.S.C. § 8101(2); 20 C.F.R. § 10.5(t).

Consequently, their medical findings and/or opinions will not suffice for purposes of establishing entitlement to FECA benefits.<sup>12</sup>

### ANALYSIS

The Board finds that OWCP properly determined that appellant has not established an injury causally related to the accepted September 13, 2017 employment incident.

Appellant submitted medical reports, work status notes, and patient clinical summaries dated September 13, 16, and 23, 2017, signed by physician assistants. The Board has consistently held that physician assistants are not considered a physician as defined under FECA and are not competent to render a medical opinion.<sup>13</sup> This evidence is, therefore, of no probative value.<sup>14</sup>

The only other medical evidence submitted was Dr. Cain's September 16, 2017 diagnostic report, which noted that a right knee x-ray revealed no fracture or other acute finding. As Dr. Cain provided findings that appellant's diagnostic testing was normal, his report provides no support for an injury and is insufficient to establish a medical diagnosis.<sup>15</sup>

Absent a specific injury-related diagnosis from a qualified physician, appellant has failed to establish an injury causally related to the accepted September 13, 2017 employment incident. Accordingly, she has failed to meet 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 September 13, 2017 employment incident.

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<sup>12</sup> Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3(a)(1) (January 2013). See also *K.W.*, 59 ECAB 271, 279 (2007); *David P. Sawchuk*, 57 ECAB 316, 320 n.11 (2006). See also *Gloria J. McPherson*, 51 ECAB 441 (2000); *Charley V.B. Harley*, 2 ECAB 208, 211 (1949) (a medical issue such as causal relationship can only be resolved through the submission of probative medical evidence from a physician).

<sup>13</sup> *K.G.*, Docket No. 17-2022 (issued March 7, 2018); *Sean O'Connell*, 56 ECAB 195 (2004) (physician assistants are not considered physicians under FECA).

<sup>14</sup> See *supra* note 12.

<sup>15</sup> *J.P.*, Docket No. 14-0087 (issued March 14, 2014).

**ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated October 23, 2017 is affirmed.

Issued: July 16, 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