

ISSUE

The issue is whether appellant has met his burden of proof to establish a right knee condition causally related to factors of his federal employment.

FACTUAL HISTORY

On November 17, 2016 appellant, then a 57-year-old letter carrier, filed an occupational disease claim (Form CA-2) alleging that, due to a prior accepted left knee injury for which he had a knee replacement, he had been favoring his right knee. He claimed that his continued job duties caused him to develop right knee arthritis.³ The employing establishment indicated that appellant was working full duty and had not been out of work due to this claimed injury. In a supplemental statement, appellant indicated that he had been a letter carrier for almost 30 years, which required him to walk many miles a day. He described job duties from casing mail in the morning to carrying mail to many addresses, ascending and descending stairs and hills, and getting in and out of postal vehicles. Appellant maintained that these job duties and his prior left knee injury caused the claimed injury of arthritis to his right knee.

Appellant submitted an operative report which related that he underwent right knee total arthroplasty on February 4, 2015.⁴

By development letter dated November 30, 2016, OWCP informed appellant of the type of evidence needed to establish his claim. This was to include a physician's opinion supported by medical rationale explaining how the claimed work activities caused, contributed to, or aggravated the claimed condition. OWCP provided appellant 30 days to submit the necessary evidence. In a separate letter it asked the employing establishment to comment on the claim.

In response appellant submitted an OWCP form questionnaire in which he wrote: "see previously submitted statement" regarding his job duties. He indicated that medical rationale would be submitted.

By decision dated January 20, 2017, OWCP denied appellant's claim, finding that the medical evidence submitted was insufficient to establish that a medical condition was diagnosed in connection with the claimed work factors.

On January 27, 2017 appellant, through counsel, requested a hearing before an OWCP hearing representative.

During the hearing, held on July 14, 2017, counsel asserted that appellant's job duties and the fact that he favored his right leg due to the accepted left knee injury caused his right knee condition. Appellant testified regarding his job duties and indicated that he was still working as a letter carrier. OWCP's hearing representative described the type of medical evidence needed.

³ The instant claim was adjudicated by OWCP under File No. xxxxxx639. Appellant indicated that his prior left knee injury was adjudicated under OWCP File No. xxxxxx495.

⁴ The operative note is essentially illegible.

In a March 22, 2017 report, Dr. David Weiss, an osteopath Board-certified in nonsurgical orthopedic surgery, noted examining appellant that day. He described appellant's work history, and his complaints of right knee pain and stiffness. Dr. Weiss noted that appellant reported that his letter carrier duties exacerbated his pain, and that he had difficulty with prolonged walking. He described November 22, 2013 right knee magnetic resonance imaging (MRI) scan findings of degenerative arthritis and noted that appellant had undergone right knee arthroplasty on February 4, 2015. Dr. Weiss noted that appellant's examination findings included a normal gait. The right knee joint was boggy, consistent with reactive synovitis. Patellofemoral compression and inhibition sign produced retropatellar pain, and tenderness was noted along the undersurface of the medial patellar facet. The knee was stable to both valgus and varus stress testing, and Lachman and drawer signs were negative. Dr. Weiss diagnosed cumulative and repetitive trauma disorder, occupational right knee syndrome, and status post right total knee arthroplasty. He concluded that appellant's cumulative and repetitive occupational trauma was the competent producing factor of his subjective and objective findings.⁵

By decision dated September 1, 2017, OWCP's hearing representative modified the January 20, 2017 decision to reflect that appellant had established the medical component of fact of injury. She also found, however, that Dr. Weiss did not provide medical rationale for his opinion that appellant's right knee condition was employment related, and that the medical records of appellant's other treating physicians were not found in the record for this claim. The hearing representative therefore affirmed the January 20, 2017 as modified to reflect that causal relationship had not been established.

On November 17, 2017 appellant, through counsel, requested reconsideration. He submitted a November 6, 2017 report in which Dr. Weiss cited to medical publications and indicated that "arthritis means joint inflammation." Appellant related that osteoarthritis was believed to be caused by mechanical stress on a joint and low-grade inflammatory process, characterized by worn cartilage due to a degenerative "wear and tear" process. Dr. Weiss opined that it was reasonable to assume that the more wear and tear there was on a joint, the greater the risk of osteoarthritis, and that the risk of osteoarthritis in a joint was greater with jobs that resulted in a high level of joint stress, *e.g.*, an increased risk was found in developing knee osteoarthritis in those who lifted, walked, climbed, and worked standing up. He concluded that he stood by his opinion that appellant had work-related injuries to appellant's right knee related to his employment duties which entailed repetitive and prolonged standing, walking, walking up and down hills, stair climbing, and casing mail.

By decision dated February 7, 2018, OWCP denied modification of its prior decision, finding that Dr. Weiss' November 6, 2017 report was insufficient to establish causal relationship.

LEGAL PRECEDENT

An employee seeking benefits under FECA⁶ 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

⁵ Dr. Weiss also provided a right knee impairment evaluation.

⁶ *Supra* note 2.

United States within the meaning of FECA, and that the claim was timely filed within the applicable time limitation period of FECA.⁷ When an employee claims that he or she sustained an injury in the performance of duty,⁸ he or she must submit sufficient evidence to establish that he or she experienced a specific event, incident, or exposure occurring at the time, place, and in the manner alleged.⁹ The employee must also establish that such event, incident, or exposure caused an injury.¹⁰ These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.¹¹

OWCP's regulations define the term "occupational disease or illness" as a condition produced by the work environment over a period longer than a single workday or shift."¹² 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 diagnosed condition is causally related to the employment factors identified by the claimant. The medical opinion 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.¹³

Causal relationship is a medical issue, and the medical evidence required to establish causal relationship is rationalized medical evidence.¹⁴ 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 employee.¹⁵ Neither the mere 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.¹⁶

⁷ 5 U.S.C. § 8101(1); *L.M.*, Docket No. 16-0143 (issued February 19, 2016); *B.B.*, 59 ECAB 234 (2007).

⁸ *Id.* at § 8102(a).

⁹ *J.C.*, Docket No. 16-0057 (issued February 10, 2016); *E.A.*, 58 ECAB 677 (2007).

¹⁰ *Id.*

¹¹ *R.H.*, 59 ECAB 382 (2008).

¹² 20 C.F.R. § 10.5(ee).

¹³ *Roy L. Humphrey*, 57 ECAB 238 (2005).

¹⁴ *Jacqueline M. Nixon-Steward*, 52 ECAB 140 (2000).

¹⁵ *Leslie C. Moore*, 52 ECAB 132 (2000); *Gary L. Fowler*, 45 ECAB 365 (1994).

¹⁶ *Dennis M. Mascarenas*, 49 ECAB 215 (1997).

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish that his diagnosed right knee conditions were causally related to the accepted employment factors.

While the record contains several reports from Dr. Weiss, the Board finds that he did not provide sufficient explanation and rationale regarding whether the right knee conditions he diagnosed were caused or aggravated by appellant's work duties. A mere conclusion without the necessary rationale explaining how and why specific duties resulted in a diagnosed condition is insufficient to meet a claimant's burden of proof.¹⁷ Dr. Weiss only generally described appellant's work duties. He expressed no knowledge of the amount of time appellant spent performing the work activities he listed, and he provided no explanation as to the mechanics of how the listed work duties resulted in appellant's diagnosed conditions. Furthermore, Dr. Weiss did not link appellant's diagnosed right knee condition to his work-related left knee injury under OWCP File No. xxxxxx495. Thus, his reports are insufficient to meet appellant's burden of proof.¹⁸

As the record is devoid of rationalized medical opinion evidence explaining how or why appellant's employment duties either caused or contributed to his diagnosed conditions, appellant has not met his burden of proof to establish causal relationship.¹⁹

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 his burden of proof to establish a right knee condition causally related to the accepted factors of his federal employment.

¹⁷ *Y.R.*, Docket No. 17-1521 (issued December 28, 2017).

¹⁸ *See M.R.*, Docket No. 16-1851 (issued January 19, 2018).

¹⁹ *E.M.*, Docket No. 18-0275 (issued June 8, 2018).

ORDER

IT IS HEREBY ORDERED THAT the February 7, 2018 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: November 16, 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