

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

<hr/>)	
C.P., Appellant)	
)	
and)	Docket No. 18-0225
)	Issued: August 5, 2019
U.S. POSTAL SERVICE, POST OFFICE,)	
North Miami, FL, Employer)	
<hr/>)	

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 11, 2017 appellant filed a timely appeal from a May 16, 2017 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act¹ (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 has appellant met her burden of proof to establish a left knee injury causally related to the accepted September 15, 2016 employment incident.

FACTUAL HISTORY

On September 29, 2016 appellant, then a 39-year-old city carrier assistant, filed a traumatic injury claim (Form CA-1) alleging that on September 15, 2016 she sprained her left knee when dismounting her truck to deliver mail while in the performance of duty. She stopped work on September 19, 2016 and returned to work on September 22, 2016. On the reverse side of the claim

¹ 5 U.S.C. § 8101 *et seq.*

form the employing establishment controverted the claim, contending that appellant had waited four days before reporting her injury.

Appellant was treated by Dr. Luis H. Lugo, a Board-certified internist, on September 19, 2016, for severe left knee pain. Dr. Lugo excused her from work and noted that she could return to normal activities on September 22, 2016.

On September 20, 2016 appellant was treated by Dr. M.A. Hajianpour, a Board-certified orthopedist, who diagnosed sprain of the medial collateral ligament of the left knee. In a September 20, 2016 status/progress report of illness/injury, Dr. Hajianpour noted that appellant could return to sedentary work, with modified duties on September 22, 2016, with no squatting, kneeling, twisting, climbing stairs, or use of ladders. In a September 27, 2016 duty status report (Form CA-17), he diagnosed sprain of the left collateral ligament and noted that appellant could return to part-time sedentary work on September 27, 2016.

Appellant submitted an authorization for examination and/or treatment (Form CA-16), dated September 21, 2016, signed by D.D., supervisor of customer service and an authorizing official, who noted an injury date of September 16, 2016 for appellant's knee sprain. D.D. noted that there was doubt as to whether the employee's condition had been caused by an injury sustained in the performance of duty or otherwise related to the employment. He authorized a physician to examine the employee using nonsurgical diagnostic studies and advise whether the condition was due to the alleged injury.

In a development letter dated October 11, 2016, OWCP advised appellant of the type of evidence needed to establish her claim, particularly requesting that she submit a physician's reasoned opinion addressing the relationship between her claimed condition and the claimed employment incident. It also requested that she respond to a questionnaire to substantiate the factual elements of her claim. OWCP afforded appellant 30 days to submit the requested evidence.

In a statement dated October 18, 2016, appellant reported that her injury occurred when she was stepping out of her truck and twisted her knee. She believed it was a minor injury and continued to work. Appellant noted that the knee pain became severe, her knee swelled and she then sought medical treatment. She did not sustain any other injury during this period. Appellant noted filing her claim on September 21, 2016 and asserted that the employing establishment held her forms until September 29, 2016 when they advised that her claim form was incomplete. She noted never having a left knee injury prior to her September 15, 2016 incident.

Appellant submitted a September 20, 2016 report from Dr. Hajianpour who treated her for bilateral knee pain. Dr. Hajianpour denied a history of specific trauma and noted that she experienced pain in both knees for the past few months. He noted findings on examination of appellant's knees. Dr. Hajianpour diagnosed sprain of the medial collateral ligament of the left knee and right knee pain. He noted x-rays of the knees revealed medial joint space narrowing. Dr. Hajianpour recommended appellant lose weight, apply ice to the knees, use a universal knee brace, attend physical therapy, and attend a nutritional consultation.

Dr. Hajianpour reexamined appellant on September 27, 2016 for improving bilateral knee pain. He noted that appellant she to him that the injury was determined to be work related. Dr. Hajianpour noted findings of tenderness of the medial collateral ligament, appellant had a limp,

and her left knee was swollen, intact neurovascularly, with improving right knee pain. He diagnosed sprain of the medial collateral ligament of the left knee and right knee pain. Appellant reported performing home exercises and taking anti-inflammatory medications. Dr. Hajianpour returned appellant to light duty, performing sedentary work with instructions to avoid prolonged walking. He also referred her for physical therapy.

By decision dated November 14, 2016, OWCP denied appellant's claim finding that the medical evidence of record was insufficient to establish that the claimed medical condition was causally related to the accepted employment incident.

On November 30, 2016 appellant requested a review of the written record by a representative of OWCP's Branch of Hearings and Review.

Appellant submitted a September 27, 2016 report from Dr. Hajianpour. She submitted part B of a Form CA-16 in which Dr. Hajianpour noted that she "twisted knee delivering mail + stepped out of truck + twisted." He noted findings of sprain of the medial collateral ligament of left knee and diagnosed left knee sprain. Dr. Hajianpour noted by checking a box marked "yes" that appellant's condition was caused or aggravated by an employment activity. He indicated that she was able to resume light-duty, performing sedentary work.

By decision dated May 16, 2017, an OWCP hearing representative affirmed the November 14, 2016 decision.

LEGAL PRECEDENT

An employee seeking benefits under FECA² 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 timely filed within the applicable time limitation of FECA,³ that an injury was sustained in the performance of duty as alleged, and that any disability or medical condition for which compensation is claimed is causally related to the employment injury.⁴ 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.⁵

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.⁶ First, the employee must submit sufficient evidence to establish that he or she actually experienced the

² *Id.*

³ *S.B.*, Docket No. 17-1779 (issued February 7, 2018); *J.P.*, 59 ECAB 178 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

⁴ *L.T.*, Docket No. 18-1603 (issued February 21, 2019); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

⁵ *G.D.*, Docket No. 19-0265 (issued May 20, 2019); *L.M.*, Docket No. 13-1402 (issued February 7, 2014); *Delores C. Ellyett*, 41 ECAB 992 (1990).

⁶ *R.B.*, Docket No. 17-2014 (issued February 14, 2019); *B.F.*, Docket No. 09-0060 (issued March 17, 2009); *Bonnie A. Contreras*, 57 ECAB 364 (2006).

employment incident at the time, place, and in the manner alleged.⁷ 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.⁸ An employee may establish that an injury occurred in the performance of duty as alleged, but fail to establish that the disability or specific condition for which compensation is being claimed is causally related to the injury.⁹

Causal relationship is a medical question that requires rationalized medical opinion evidence to resolve the issue.¹⁰ A physician's opinion on whether there is causal relationship between the diagnosed condition and the implicated employment factor(s) must be based on a complete factual and medical background.¹¹ Additionally, the physician's opinion must be expressed in terms of a reasonable degree of medical certainty, and must be supported by medical rationale, explaining the nature of the relationship between the diagnosed condition and appellant's specific employment factor(s).¹²

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish a left knee injury causally related to the accepted September 15, 2016 employment incident.

Appellant submitted a September 27, 2016 report from Dr. Hajianpour who treated her for improving bilateral knee pain. Dr. Hajianpour noted that she related that her knee injury was determined to be work related. He noted findings of tenderness of the medial collateral ligament and swelling of the left knee. Dr. Hajianpour diagnosed sprain of the medial collateral ligament of the left knee and right knee pain and returned appellant to light-duty, sedentary work. However, he merely repeated the history of injury as reported by appellant without providing his own opinion regarding whether her condition was work related. The Board has held that medical evidence that does not offer an opinion regarding the cause of an employee's condition is of no probative value on the issue of causal relationship.¹³ This report, therefore, is insufficient to establish appellant's claim.

On September 20, 2016 Dr. Hajianpour treated appellant for bilateral knee pain. Appellant denied any history of specific trauma and noted experiencing pain in both knees for the past few months. Dr. Hajianpour noted that x-rays of the knees revealed medial joint space narrowing. He diagnosed sprain of the medial collateral ligament of the left knee and right knee pain. The Board finds that Dr. Hajianpour's note is insufficient to establish the claim as he did not address whether

⁷ *S.F.*, Docket No. 18-0296 (issued July 26, 2018); *D.B.*, 58 ECAB 464 (2007); *David Apgar*, 57 ECAB 137 (2005).

⁸ *A.D.*, Docket No. 17-1855 (issued February 26, 2018); *C.B.*, Docket No. 08-1583 (issued December 9, 2008); *D.G.*, 59 ECAB 734 (2008), *Bonnie A. Contreras*, *supra* note 6.

⁹ *Shirley A. Temple*, 48 ECAB 404, 407 (1997).

¹⁰ *T.H.*, 59 ECAB 388, 393 (2008); *Robert G. Morris*, 48 ECAB 238 (1996).

¹¹ *M.S.*, Docket No. 19-0189 (issued May 14, 2019).

¹² *Id.*; *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

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

appellant's employment incident was sufficient to have caused or aggravated a diagnosed medical condition.¹⁴

Appellant also submitted a September 20, 2016 referral form from Dr. Hajianpour, who diagnosed sprain of the medial collateral ligament of the left knee. In a September 20, 2016 progress report, Dr. Hajianpour noted that appellant could return to modified sedentary duties on September 22, 2016. Similarly, in a September 27, 2016 duty status report (Form CA-17), he diagnosed sprain of the left collateral ligament and noted that appellant could return to part-time, sedentary work on September 27, 2016. Likewise, in a September 19, 2016 report, Dr. Lugo treated appellant for severe knee pain and took her off work until September 22, 2016. However, in these reports, neither Dr. Hajianpour nor Dr. Lugo specifically addressed whether appellant's employment incident was sufficient to have caused or aggravated a diagnosed medical condition.¹⁵ Therefore, these reports are insufficient to meet appellant's burden of proof.

Appellant submitted an authorization for examination and/or treatment (Form CA-16), dated September 21, 2016, signed by D.D., supervisor of customer service who authorized a physician to examine the employee using nonsurgical diagnostic studies and advise whether the condition was due to the alleged injury. In the attached attending physician's report (Part B of the Form CA-16), Dr. Hajianpour noted that appellant "twisted knee delivering mail + stepped out of truck + twisted." He noted findings of sprain of the medial collateral ligament of left knee and diagnosed left knee sprain. Dr. Hajianpour noted by checking a box marked "yes" that appellant's condition was caused or aggravated by an employment activity. He indicated that she was able to resume light-duty, sedentary work. The Board has held that when a physician's opinion on causal relationship consists only of checking "yes" to a form question, without explanation or rationale, that opinion is of diminished probative value and is insufficient to establish a claim.¹⁶

On appeal appellant reiterated the factual elements of her claim. As explained above, OWCP accepted that the September 15, 2016 employment incident occurred as alleged. However, the medical evidence of record is insufficient establish that appellant has a diagnosed medical condition causally related to her accepted work incident.¹⁷

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.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Sedi L. Graham*, 57 ECAB 494 (2006); *D.D.*, 57 ECAB 734 (2006).

¹⁷ The Board notes that the employing establishment issued a Form CA-16. A completed Form CA-16 authorization may constitute a contract for payment of medical expenses to a medical facility or physician, when properly executed. The form creates a contractual obligation, which does not involve the employee directly, to pay for the cost of the examination or treatment regardless of the action taken on the claim. See 20 C.F.R. § 10.300(c); *J.G.*, Docket No. 17-1062 (issued February 13, 2018); *Tracy P. Spillane*, 54 ECAB 608 (2003).

CONCLUSION

The Board finds that appellant has not met her burden of proof to establish a left knee injury causally related to the accepted September 15, 2016 employment incident.

ORDER

IT IS HEREBY ORDERED THAT the May 16, 2017 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: August 5, 2019
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