



## ISSUE

The issue is whether appellant has met his burden of proof to establish a left knee condition causally related to the accepted May 20, 2017 employment incident.

## FACTUAL HISTORY

On May 30, 2017 appellant, then a 54-year-old postmaster, filed a traumatic injury claim (Form CA-1) alleging that on May 20, 2017 he was conducting a route inspection in a long-life vehicle, and when he pulled himself up to exit the vehicle he felt pain in his left knee. He stopped work on May 24, 2017 and returned to work on May 30, 2017. On the reverse side of the claim form, the employing establishment controverted the claim noting that appellant had not mentioned the incident until four days after it had occurred.

On May 25, 2017 Dr. Patrick Butcher, Board-certified in emergency medicine, recommended that appellant be excused from work for the period May 25 through 28, 2017. He provided appellant emergency department discharge instructions for knee effusion and knee pain. OWCP also received a June 1, 2017 work status report from Dale Pietrowski, a physician assistant, who diagnosed left knee strain and left knee effusion and excused appellant from all work through June 8, 2017.

In a development letter dated June 7, 2017, OWCP informed appellant that he had not submitted sufficient factual or medical evidence to establish his claim. It advised him of the type of evidence needed and provided a questionnaire for his completion. OWCP afforded appellant 30 days to respond.

OWCP subsequently received a May 30, 2017 initial examination report from Dr. Carlos Garrett, a Board-certified internist. Dr. Garrett examined appellant for complaints of left knee pain. Appellant informed him that he had sustained an injury on May 20, 2017 when he stood up from a floor-level seat in a postal vehicle and felt a pain shoot through his left knee. He noted that on May 24, 2017 he had visited an emergency room where liquid was drained from his left knee. On examination, Dr. Garrett observed tenderness without joint effusion, full flexion, and a positive patellofemoral grind test. He diagnosed left knee joint effusion, internal derangement of the left knee, and a left knee ligament injury. Dr. Garrett recommended use of a cane.

In a June 1, 2017 follow-up report, Dr. Garrett noted that appellant recounted an injury on May 20, 2017 when he was sitting in the cargo compartment of a postal vehicle in a seat bolted to the floor and pulled himself up, feeling a pain shoot through his left knee. On examination he noted tenderness, joint effusion, and limited flexion. Dr. Garrett diagnosed left knee effusion and strain.

In a report dated June 8, 2017, Dr. Andree Leroy, Board-certified in physical medicine and rehabilitation, diagnosed left knee effusion and recommended that appellant be off work until June 15, 2017. He indicated that appellant stated that his left knee was 20 percent better. On examination, Dr. Leroy observed joint effusion with limited flexion. He diagnosed left knee effusion. After reviewing appellant's account of the claimed injury, Dr. Leroy indicated that he agreed with the mechanism of injury.

A June 12, 2017 left knee magnetic resonance imaging (MRI) scan revealed a lateral meniscus horizontal oblique tear of the posterior horn, a medial meniscus oblique intermediate signal intensity, a grade 1 medial collateral ligament sprain, mild degeneration of the anterior cruciate ligament, popliteus moderate tendinosis at the femoral origin, and a moderate-sized joint effusion. The diagnostic report noted that the findings were of indeterminate age.

In a follow-up report dated June 15, 2017, Dr. Garrett noted that appellant's MRI scans demonstrated a left meniscus tear. He diagnosed a complex tear of the left knee medial meniscus and an acute left knee lateral meniscus tear. Dr. Garrett recommended that appellant remain off work. On June 22, 2017 he noted that appellant was currently on modified duty. On examination of the left knee, Dr. Garrett observed tenderness, no joint effusion, and limited flexion. He diagnosed acute medial and lateral meniscus tears of the left knee.

By decision dated July 13, 2017, OWCP denied appellant's claim finding that he had not submitted sufficient evidence to meet his burden of proof to establish causal relationship between his diagnosed conditions and the accepted May 20, 2017 employment incident.

OWCP subsequently received a June 27, 2017 report from Dr. Arash Dini, a Board-certified orthopedic surgeon. Dr. Dini diagnosed a left tear of the medial meniscus and recommended that appellant be off work until July 25, 2017. In an initial evaluation of the same day, he evaluated appellant for complaints of left knee pain. Appellant informed Dr. Dini that he sustained an injury at work on May 20, 2017 by "striking it." On examination of the left knee, he observed unrestricted range of motion, tenderness to palpation, positive lateral joint line tenderness, and intact sensation. Dr. Dini referred to the MRI scan taken on June 12, 2017, which demonstrated a tear of the lateral and medial menisci, anterior cruciate ligament degeneration, and moderate joint effusion. He diagnosed a knee contusion and meniscal tears. Dr. Dini opined that it appeared that appellant sustained an injury to the left knee arising out of and caused by industrial exposure on May 20, 2017 and recommended that appellant remain off work.

Appellant submitted unsigned visit summaries dated February 5 through May 7, 2018, as well as a report from a physician assistant dated July 12, 2018.

On June 25, 2018 appellant, through counsel, requested reconsideration of OWCP's July 13, 2017 decision. Counsel noted that a report from Dr. Garrett dated June 19, 2018 was enclosed. Appellant resubmitted the reports of Dr. Garret, Dr. Leroy, and Dr. Dini.

By decision dated September 21, 2018, OWCP denied modification of the prior decision.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA 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, 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.<sup>4</sup> 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.<sup>5</sup>

To determine if an employee sustained a traumatic injury in the performance of duty, OWCP begins with an analysis of whether fact of injury has been established. Fact of injury consists of two components that must be considered in conjunction with one another. The first component is whether the employee actually experienced the employment incident that allegedly occurred.<sup>6</sup> The second component is whether the employment incident caused a personal injury.<sup>7</sup>

Causal relationship is a medical question that generally requires rationalized medical opinion evidence to resolve the issue. 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. Additionally, the physician's opinion must be expressed in terms of a reasonable degree of medical certainty and must be supported by medical rationale that explains the nature of the relationship between the diagnosed condition and appellant's employment incident.<sup>8</sup>

### ANALYSIS

The Board finds that appellant has not met his burden of proof to establish a left knee condition causally related to the accepted May 20, 2017 employment incident.

In support of his claim, appellant submitted medical reports from Dr. Garrett and Dr. Leroy.

On May 30, 2017 appellant indicated to Dr. Garrett that he had sustained an injury on May 20, 2017 when he stood up from a floor-level seat in a postal vehicle and felt a pain shoot through his left knee. Dr. Garrett diagnosed left knee joint effusion, internal derangement of the left knee, and a left knee ligament injury. This history of injury was replicated in subsequent reports from Dr. Garrett. However, such generalized statements do not establish causal relationship because they merely repeat appellant's allegations and are unsupported by adequate medical rationale explaining how the incident of May 20, 2017 actually caused the diagnosed condition.<sup>9</sup> As such, they are insufficient to satisfy appellant's burden of proof with respect to causal relationship.<sup>10</sup>

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<sup>4</sup> *J.M.*, Docket No. 17-0284 (issued February 7, 2018); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

<sup>5</sup> *K.M.*, Docket No. 15-1660 (issued September 16, 2016); *L.M.*, Docket No. 13-1402 (issued February 7, 2014); *Delores C. Ellyett*, 41 ECAB 992 (1990).

<sup>6</sup> *Elaine Pendleton*, 40 ECAB 1143 (1989).

<sup>7</sup> *M.H.*, Docket No. 18-1737 (issued March 13, 2019); *John J. Carlone*, 41 ECAB 354 (1989).

<sup>8</sup> *S.S.*, Docket No. 18-1488 (issued March 11, 2019).

<sup>9</sup> *See J.B.*, Docket No. 18-1006 (issued May 3, 2019); *K.W.*, 59 ECAB 271, 279 (2007).

<sup>10</sup> *Id.*

On June 27, 2017 Dr. Dini opined that it appeared appellant sustained an injury to the left knee arising out of and caused by industrial exposure on May 20, 2017 and recommended that appellant remain off work. Dr. Leroy's brief statement and reports that he agreed with appellant's account of the mechanism of injury, along with Dr. Dini's statement that appellant's left knee condition "appeared" to arise out of "industrial exposure" on May 20, 2017, also do not establish that appellant's left knee condition was causally related to the May 20, 2017 employment incident. On June 8, 2017, after reviewing appellant's account of the claimed injury, Dr. Leroy indicated that he agreed with the mechanism of injury. The Board has held that a medical opinion is of limited value if it is conclusory or speculative in nature.<sup>11</sup> Dr. Leroy's brief statement that he agreed with appellant's account of the mechanism of injury is conclusory in nature, as it does not contain an explanation of how the incident of May 20, 2017 physiologically caused, contributed to, or aggravated the specific diagnosed conditions.<sup>12</sup> Similarly, Dr. Dini's opinion refers to the cause as "industrial exposure" and does not describe in physiological terms how the incident of May 20, 2017 caused the diagnosed left knee conditions. Furthermore, Dr. Dini's opinion was couched in speculative terms, noting that appellant's condition "appeared" to have been caused by the incident of May 20, 2017. Entitlement to FECA benefits may not be based on surmise, conjecture, speculation, or on the employee's own belief of a causal relationship.<sup>13</sup> While the opinion supporting causal relationship does not have to reduce the cause or etiology of a disease or condition to an absolute certainty, the opinion must be one of reasonable medical certainty and not speculative or equivocal in character.<sup>14</sup> As Dr. Dini's opinion is speculative and equivocal in nature, it does not carry appellant's burden of proof as to causal relationship.

Appellant submitted reports from Dr. Butcher dated May 25, June 8 and 15, 2017, respectively. However, these reports did not include opinions as to causal relationship. Medical evidence which does not offer an opinion on causal relationship is of no probative value to the issue of causal relationship.<sup>15</sup> Therefore, these reports are insufficient to establish appellant's claim.

Appellant submitted unsigned visit summaries dated February 5 through May 7, 2018, as well as a report from a physician assistant dated July 12, 2018. Reports that are unsigned or that bear illegible signatures cannot be considered as probative medical evidence because they lack proper identification.<sup>16</sup> The Board has consistently held that physician assistants are not competent

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<sup>11</sup> See *M.S.*, Docket No. 19-0189 (issued May 14, 2019); *L.T.*, Docket No. 18-1603 (issued February 21, 2019); *B.H.*, Docket No. 18-1219 (issued January 25, 2019); *Birger Areskog*, 30 ECAB 571 (1979).

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> *C.L.*, Docket No. 18-1379 (issued February 5, 2019).

<sup>15</sup> See *L.T.*, *supra* note 11.

<sup>16</sup> *T.C.*, Docket No. 18-1351 (issued May 9, 2019); *Thomas L. Agee*, 56 ECAB 465 (2005); *Richard F. Williams*, 55 ECAB 343 (2004).

to render a medical opinion.<sup>17</sup> As such, the reports of physician assistants are entitled to no probative weight because a physician assistant is not a “physician” as defined by section 8101(2).<sup>18</sup>

Finally, appellant submitted a June 12, 2017 left knee MRI scan. The Board has previously held, however, that diagnostic studies lack probative value as they do not address whether the employment incident caused any of the diagnosed conditions.<sup>19</sup> This report is therefore insufficient to establish his claim.

For these reasons, the Board finds the evidence of record is insufficient to meet appellant’s burden of proof on the issue of causal relationship.

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 left knee condition causally related to the accepted May 20, 2017 employment incident.

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<sup>17</sup> See *K.C.*, Docket No. 16-1181 (issued July 26, 2017); *Janet L. Terry*, 53 ECAB 570 (2002); *Allen C. Hundley*, 53 ECAB 551 (2002).

<sup>18</sup> *Id.*

<sup>19</sup> See *J.S.*, Docket No. 17-1039 (issued October 6, 2017).

**ORDER**

**IT IS HEREBY ORDERED THAT** the September 21, 2018 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

Alec J. Koromilas, Alternate Judge  
Employees' Compensation Appeals Board

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