

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

S.S., Appellant	)	
	)	
and	)	Docket No. 19-0675
	)	Issued: August 22, 2019
DEPARTMENT OF HOMELAND SECURITY,	)	
TRANSPORTATION SECURITY	)	
ADMINISTRATION, O'HARE	)	
INTERNATIONAL AIRPORT, Chicago, IL,	)	
Employer	)	
	)	

*Appearances:*  
Alan J. Shapiro, Esq., for the appellant<sup>1</sup>  
Office of Solicitor, for the Director

*Case Submitted on the Record*

**DECISION AND ORDER**

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

**JURISDICTION**

On February 5, 2019 appellant, through counsel, filed a timely appeal from a January 2, 2019 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act<sup>2</sup> (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

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<sup>1</sup> In all cases in which a representative has been authorized in a matter before the Board, no claim for a fee for legal or other service performed on appeal before the Board is valid unless approved by the Board. 20 C.F.R. § 501.9(e). No contract for a stipulated fee or on a contingent fee basis will be approved by the Board. *Id.* An attorney or representative's collection of a fee without the Board's approval may constitute a misdemeanor, subject to fine or imprisonment for up to one year or both. *Id.*; see also 18 U.S.C. § 292. Demands for payment of fees to a representative, prior to approval by the Board, may be reported to appropriate authorities for investigation.

<sup>2</sup> 5 U.S.C. § 8101 *et seq.*

## ISSUE

The issue is whether appellant has met his burden of proof to establish a right knee injury causally related to the accepted February 11, 2018 employment incident.

## FACTUAL HISTORY

On February 20, 2018 appellant, then a 24-year-old transportation security officer, filed a traumatic injury claim (Form CA-1) alleging that on February 11, 2018 at 1:45 p.m. he sprained his right knee when he tripped over a bin while in the performance of duty. On the reverse side of the claim form appellant's supervisor noted that he was not made aware of appellant's injury until a week after it occurred.<sup>3</sup>

On February 27, 2018 the employing establishment controverted appellant's claim.

In support of his claim, appellant submitted medical evidence including a February 19, 2018 report from Dr. Patricia Ann Graham, a Board-certified internist, who diagnosed torn cartilage and right knee sprain. In a March 1, 2018 report, Dr. Adam Yanke, a Board-certified orthopedic surgeon, diagnosed right knee injury (possible meniscus tear or loose body). He noted that appellant reported right knee pain following a February 11, 2018 injury with one locking episode.

OWCP, in a March 6, 2018 development letter, noted that when appellant's claim was first received, it appeared to be a minor injury that resulted in minimal or no lost time from work. It had administratively approved payment of a limited amount of medical expenses without formally considering the merits of his claim. OWCP advised that it was now considering the merits. It requested additional factual and medical evidence, and provided a questionnaire for his completion. It afforded him 30 days to respond.

On March 8, 2018 the employing establishment provided appellant with an authorization for examination and/or treatment (Form CA-16) authorizing medical treatment for appellant's alleged February 11, 2018 injury.

OWCP subsequently received a March 1, 2018 report wherein Dr. Yanke described appellant's employment incident as tripping on a bin at work on February 11, 2018 and then experiencing a "weird sensation" in his right knee. Appellant began to experience pain, locking, and swelling in his right knee over the course of the week following February 11, 2018. Dr. Yanke diagnosed possible right knee medial meniscal tear.

Appellant responded to OWCP's development questionnaire and asserted that he was not completely sure when the tripping incident occurred, but that he only worked on the x-ray lane on February 11 and 15, 2018. He again described the alleged employment incident as walking to the front of the x-ray machine, stepping on a bin, and tripping. Appellant asserted that he stumbled, but did not fall to the ground. He felt a "weird pop" in his right knee, with slight discomfort, but

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<sup>3</sup> Appellant resigned from the employing establishment effective April 17, 2018.

no immediate pain. Appellant picked up the bin and returned to his position. He denied that any coworkers witnessed this incident or that he had stated that any coworkers were witnesses.

Dr. Yanke in a March 13, 2018 attending physician's form report (Form CA-20) diagnosed medial meniscal tear. He checked a box marked "yes" indicating that appellant's condition was caused or aggravated by the February 11, 2018 trip and fall at work, and further noted that appellant had no symptoms prior to this incident.

By decision dated April 12, 2018, OWCP denied appellant's traumatic injury claim, finding that he had not established that the February 11, 2018 incident occurred as alleged. It concluded that the requirements had not been met to establish an injury as defined by FECA.

On May 3, 2018 appellant, through counsel, requested an oral hearing before OWCP's hearing representative. OWCP subsequently received a March 15, 2018 note, wherein Dr. Yanke diagnosed iliotibial band friction syndrome.

Appellant subsequently underwent a right knee magnetic resonance imaging (MRI) scan which did not demonstrate a discrete tear in the medial meniscus, but was suspicious for a tiny tear within the anterior root of the lateral meniscus.

A hearing was held on October 17, 2018.

By decision dated January 2, 2019, OWCP's hearing representative modified the April 12, 2018 decision finding that appellant established that the injury of February 11, 2018 occurred, as alleged. However, the claim remained denied as appellant had not established causal relationship between appellant's diagnosed condition and his accepted employment incident.

### **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 period of FECA,<sup>4</sup> 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>5</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>6</sup>

To determine if an employee has sustained a traumatic injury in the performance of duty, OWCP begins with an analysis of whether fact of injury has been established. Generally, fact of

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<sup>4</sup> *S.B.*, Docket No. 17-1779 (issued February 7, 2018); *J.P.*, 59 ECAB 178 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

<sup>5</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>6</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).

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>7</sup> The second component is whether the employment incident caused a personal injury.<sup>8</sup>

Causal relationship is a medical issue and the medical evidence required to establish causal relationship is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence which includes a physician's detailed opinion on whether there is causal relationship between the employee's diagnosed condition and the accepted employment incident.<sup>9</sup> The opinion of the physician must be based on a complete factual and medical background, 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 incident.<sup>10</sup> 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.<sup>11</sup>

### ANALYSIS

The Board finds that appellant has not met his burden of proof to establish a right knee injury causally related to the accepted February 11, 2018 employment incident.

Dr. Graham, a Board-certified internist, diagnosed torn cartilage and right knee sprain, but did not provide an opinion on the cause of this condition. In a March 15, 2018 note, Dr. Yanke likewise did not provide any opinion on the cause of appellant's diagnosed iliotibial band friction syndrome. 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.<sup>12</sup> These reports, therefore, are insufficient to establish appellant's claim.

On March 1, 2018 Dr. Yanke, diagnosed a right knee injury (possible meniscus tear or loose body). He noted that appellant reported right knee pain following a February 11, 2018 injury with one locking episode. Dr. Yanke did not provide a clear diagnosis and the fact that a condition manifests itself during a period of employment is insufficient to establish causal relationship.

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<sup>7</sup> *T.M.*, Docket No. 19-0380 (issued June 26, 2019); *Elaine Pendleton*, 40 ECAB 1143 (1989).

<sup>8</sup> *M.H.*, Docket No. 18-1737 (issued March 13, 2019); *John J. Carlone*, 41 ECAB 354 (1989).

<sup>9</sup> *C.B.*, Docket No. 18-0071 (issued May 13, 2019); *S.B.*, Docket No. 17-1779 (issued February 7, 2018); *J.P.*, 59 ECAB 178 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

<sup>10</sup> *S.S.*, Docket No. 18-1488 (issued March 11, 2019).

<sup>11</sup> *J.L.*, Docket No. 18-1804 (issued April 12, 2019).

<sup>12</sup> *R.W.*, Docket No. 19-0010 (issued June 18, 2019); *L.B.*, Docket No. 18-0533 (issued August 27, 2018).

Temporal relationship alone will not suffice.<sup>13</sup> This report, therefore, is insufficient to establish appellant's claim.<sup>14</sup>

In a March 13, 2018 form report (Form CA-20), Dr. Yanke diagnosed medial meniscal tear. He checked a box marked "yes" indicating that appellant's condition was caused or aggravated by the February 11, 2018 work incident. The Board has held that a physician's opinion on causal relationship which consists of checking "yes" to a form question, without explanation or rationale, is of diminished probative value and is insufficient to establish a claim.<sup>15</sup> Dr. Yanke further noted that appellant had no symptoms prior to this fall. The Board has held that the fact that a condition manifests itself during a period of employment is insufficient to establish causal relationship. Temporal relationship alone will not suffice.<sup>16</sup> Thus, the Board finds that this report is insufficient to establish appellant's burden of proof.

Finally, appellant has submitted an MRI scan in support of his claim. The Board has explained that diagnostic studies lack probative value as they do not address whether the employment incident caused any of the diagnosed conditions.<sup>17</sup> These reports are therefore also insufficient to establish appellant's claim.

Causal relationship is a medical question that must be established by probative medical opinion from a physician.<sup>18</sup> As appellant has not submitted such medical evidence, the Board finds that he has not met his burden of proof.<sup>19</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.

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<sup>13</sup> *M.H.*, Docket No. 18-1737 (issued March 13, 2019); *Daniel O. Vasquez*, 57 ECAB 559 (2006).

<sup>14</sup> *M.B.*, Docket No. 18-0906 (issued November 21, 2018).

<sup>15</sup> *J.R.*, Docket No. 18-1679 (issued May 6, 2019); *M.C.*, Docket No. 18-0361 (issued August 15, 2018); *Calvin E. King, Jr.*, 51 ECAB 394 (2000); *see also Frederick E. Howard, Jr.*, 41 ECAB 843 (1990).

<sup>16</sup> *Supra* note 13.

<sup>17</sup> *R.C.*, Docket No. 19-0376 (issued July 15, 2019).

<sup>18</sup> *T.K.*, Docket No. 18-1239 (issued May 29, 2019).

<sup>19</sup> A properly completed CA-16 form 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. The period for which treatment is authorized by a Form CA-16 is limited to 60 days from the date of issuance, unless terminated earlier by OWCP. 20 C.F.R. § 10.300(c); *P.R.*, Docket No. 18-0737 (issued November 2, 2018); *N.M.*, Docket No. 17-1655 (issued January 24, 2018); *Tracy P. Spillane*, 54 ECAB 608 (2003).

**CONCLUSION**

The Board finds that appellant has not met his burden of proof to establish a right knee injury causally related to the accepted February 11, 2018 employment incident.

**ORDER**

**IT IS HEREBY ORDERED THAT** the January 2, 2019 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: August 22, 2019  
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