United States Department of Labor
Employees' Compensation Appeals Board

N.M., Appellant	)	
and	)	**Docket No. 19-0795**
	)	**Issued: August 21, 2019**
U.S. POSTAL SERVICE, POST OFFICE, Metamora, MI, Employer	)	

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

Case Submitted on the Record

DECISION AND ORDER

Before:
PATRICIA H. FITZGERALD, Deputy Chief Judge
JANICE B. ASKIN, Judge
ALEC J. KOROMILAS, Alternate Judge

JURISDICTION

On March 1, 2019 appellant filed a timely appeal of the February 8, 2019 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act[1] (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

ISSUE

The issue is whether appellant has met her burden of proof to establish a right knee condition causally related to the accepted December 4, 2018 employment incident.

FACTUAL HISTORY

On December 4, 2018 appellant, then a 31-year-old rural carrier associate, filed a traumatic injury claim (Form CA-1) alleging that on December 4, 2018 she sustained a dislocated right patella when she went to step into a long-life vehicle (LLV) while in the performance of duty. In

[1] 5 U.S.C. § 8101 *et seq.*

a supplemental statement received on December 10, 2018, she explained that her "knee went out" when she stepped into the LLV and she was told at the hospital that she dislocated her kneecap. Appellant stopped work on the date of injury.

In discharge instructions dated December 4, 2018, Dr. Kenneth Franckowiak, an osteopath Board-certified in emergency medicine, noted that appellant presented to the emergency department with right knee pain and he diagnosed her with a dislocated patella (kneecap).

OWCP also received the first page of an authorization for examination and/or treatment (Form CA-16), which indicated that appellant was authorized to seek medical treatment for her December 4, 2018 employment incident.

In a December 31, 2018 development letter, OWCP indicated that when the claim was received, it appeared to be a minor injury that resulted in minimal or no lost time from work. As such, it had administratively approved payment of a limited amount of medical expenses without formally considering the merits of her claim. OWCP advised appellant of the deficiencies of her claim. It requested additional factual and medical evidence from her, including a narrative medical report from her attending physician. OWCP afforded appellant 30 days to respond

In a medical report dated December 17, 2018, Megan Lumsden, a physician assistant, referred appellant to physical therapy and prescribed a sport knee brace with open patella. OWCP also received an illegible prescription of even date from Ms. Lumsden.

By decision dated February 8, 2019, OWCP denied appellant's traumatic injury claim, finding that the evidence submitted was insufficient to establish that her medical condition was causally related to the accepted work event.

LEGAL PRECEDENT

An employee seeking benefits under FECA[2] 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,[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]

[2] *Id*.

[3] *S.C.*, Docket No. 18-1242 (issued March 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).

[4] *S.C.*, *id.; J.M.*, Docket No. 17-0284 (issued February 7, 2018); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

[5] *S.C.,id.;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).

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 employment incident at the time, place, and in the manner alleged.[7] Second, the employee must submit sufficient evidence to establish that the employment incident caused a personal injury.[8]

Causal relationship is a medical issue and the medical evidence required to establish causal relationship is rationalized medical opinion evidence.[9] Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on the issue of whether there is causal relationship between the claimant's diagnosed condition and the implicated employment factors. 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 claimant.[10]

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish a right knee condition causally related to the accepted December 4, 2018 employment incident.

In his discharge instructions, Dr. Franckowiak diagnosed a dislocated patella. However, he did not opine as to the cause of appellant's condition. 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.[11] Therefore, Dr. Franckowiak's report is insufficient to establish appellant's claim.

Appellant also submitted a report from a physician assistant. This report does not constitute competent medical evidence because physician assistants are not considered physicians as defined under FECA.[12] As this report is not countersigned by a qualified physician, the Board finds that this report has no probative value.[13]

---

[6] *R.C.*, Docket No. 19-0376 (issued July 15, 2019).

[7] *Id*.

[8] *Id*.

[9] *M.B.*, Docket No. 17-1999 (issued November 13, 2018).

[10] *M.L.*, Docket No. 18-1605 (issued February 26, 2019).

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

[12] 5 U.S.C. § 8101(2). This subsection defines a physician as surgeons, podiatrist, dentists, clinical psychologists, optometrists, chiropractors, and osteopathic practitioners within the scope of their practice as defined by State law.

[13] *K.W.*, 59 ECAB 271, 279 (2007); *David P. Sawchuk*, 57 ECAB 316, 320 n.11 (2006). Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3a(1) (January 2013); *see S.Y.*, Docket No. 18-1814 (issued April 18, 2019); *M.F.*, Docket No. 17-1973 (issued December 31, 2018).

As appellant has not submitted rationalized medical evidence establishing that her right knee condition is causally related to the accepted factors of her federal employment, the Board finds that she has not met her burden of proof to establish her claim.

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 December 4, 2018 employment incident.

ORDER

IT IS HEREBY ORDERED THAT the February 8, 2019 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: August 21, 2019
Washington, DC

Patricia H. Fitzgerald, Deputy Chief Judge
Employees' Compensation Appeals Board

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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