



## ISSUE

The issue is whether appellant has met his burden of proof to establish a right knee condition causally related to the accepted February 7, 2018 employment incident.

## FACTUAL HISTORY

On February 14, 2018 appellant, then a 39-year-old military technician/mechanic, filed a traumatic injury claim (Form CA-1) alleging that, while repairing a truck in the performance of duty on February 7, 2018, he slipped and fell from a height of approximately four feet which resulted in a right meniscal tear. He stopped work the same day.

In support of his claim, appellant submitted a report dated February 8, 2018 from Dr. Juan R. Suarez-Pesante, an attending Board-certified orthopedic surgeon. On examination of the right knee, Dr. Suarez-Pesante observed swelling, severe tenderness, and decreased range of motion after an unspecified traumatic injury.<sup>3</sup> He diagnosed a right knee injury and osteoarthritis superimposed on a history of a partial right anterior cruciate ligament (ACL) tear. Dr. Suarez-Pesante prescribed a knee immobilizer and crutches.

In a report dated February 12, 2018, Dr. Magdiel Mayol-Urdaz, an attending Board-certified orthopedic surgeon, noted a history of right knee trauma on February 7, 2018. On examination, he observed swelling and instability of the right knee. Dr. Mayol-Urdaz noted that, although a December 2017 magnetic resonance imaging (MRI) scan showed a small medial tear of the posterior horn of the medial meniscus, appellant's clinical presentation indicated a bucket handle medial meniscal tear. He aspirated approximately 40 ccs of synovial fluid from the right knee, "suggestive of acute trauma."

By development letter dated March 1, 2018, OWCP advised appellant of the medical and factual evidence needed to establish his claim, including a detailed description of the February 7, 2018 employment incident, and a narrative report from his physician explaining how and why that event would cause the claimed right knee condition. It afforded him 30 days to submit the necessary evidence. No response was received.

By decision dated April 10, 2018, OWCP accepted that the February 7, 2018 incident occurred as alleged. It denied the claim, however, as causal relationship had not been established between the diagnosed right knee condition and the accepted February 7, 2018 employment incident.

## LEGAL PRECEDENT

An employee seeking benefits under FECA<sup>4</sup> 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 filed within the applicable time limitation, that an injury was sustained while in the performance of duty as alleged, and that any

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<sup>3</sup> X-rays of the right knee obtained on February 7, 2018 were negative for fracture or dislocation.

<sup>4</sup> *Supra* note 1.

disability or specific 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 on a traumatic injury or an occupational disease.<sup>6</sup>

In order to determine whether an employee 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 injury consists of two components, which must be considered in conjunction with one another. The first component to be established is that the employee actually experienced the employment incident which is alleged to have occurred.<sup>7</sup> The second component is whether the employment incident caused a personal injury and generally can be established only by medical evidence.<sup>8</sup>

Causal relationship is a medical issue, and the medical evidence required to establish causal relationship is rationalized medical evidence.<sup>9</sup> 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.<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 that his right knee condition is causally related to the accepted February 7, 2018 employment incident.

Appellant first sought treatment on February 8, 2018 from Dr. Suarez-Pesante, who diagnosed a right knee injury and osteoarthritis superimposed on a history of a partial right ACL tear. However, Dr. Suarez-Pesante did not provide an opinion as to whether the diagnosed condition was causally related to the accepted employment incident. The Board has held that medical evidence that does not offer an opinion regarding the cause of an employee's condition is

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<sup>5</sup> *Alvin V. Gadd*, 57 ECAB 172 (2005); *Anthony P. Silva*, 55 ECAB 179 (2003).

<sup>6</sup> See *Elizabeth H. Kramm (Leonard O. Kramm)*, 57 ECAB 117 (2005); *Ellen L. Noble*, 55 ECAB 530 (2004).

<sup>7</sup> *R.E.*, Docket No. 17-0547 (issued November 13, 2018); *David Apgar*, 57 ECAB 137 (2005); *Delphyne L. Glover*, 51 ECAB 146 (1999).

<sup>8</sup> *R.E.*, *id.*

<sup>9</sup> *G.N.*, Docket No. 18-0403 (issued September 13, 2018); *Jacqueline M. Nixon-Steward*, 52 ECAB 140 (2000).

<sup>10</sup> *K.V.*, Docket No. 18-0723 (issued November 9, 2018); *Leslie C. Moore*, 52 ECAB 132 (2000); *Gary L. Fowler*, 45 ECAB 365 (1994).

<sup>11</sup> *Dennis M. Mascarenas*, 49 ECAB 215 (1997).

of no probative value on the issue of causal relationship.<sup>12</sup> This report is, therefore, insufficient to establish appellant's claim.

Appellant was also followed by Dr. Mayol-Urdaz, who noted a February 7, 2018 incident and diagnosed a right meniscal tear with effusion suggestive of acute trauma. Dr. Mayol-Urdaz too did not provide an opinion as to whether the right meniscal tear was causally related to the accepted February 7, 2018 traumatic incident. As he did not address causal relationship, his report is insufficient to meet appellant's burden of proof.<sup>13</sup>

As appellant has not submitted rationalized medical evidence sufficient to establish that his right knee condition was causally related to the accepted employment incident, he has not met his burden of proof.<sup>14</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.

### **CONCLUSION**

The Board finds that appellant has not met his burden of proof to establish a right knee condition causally related to the accepted February 7, 2018 employment incident.

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<sup>12</sup> See *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

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

<sup>14</sup> *Id.*

**ORDER**

**IT IS HEREBY ORDERED THAT** the April 10, 2018 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: January 15, 2019  
Washington, DC

Christopher J. Godfrey, Chief Judge  
Employees' Compensation Appeals Board

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

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