United States Department of Labor
Employees' Compensation Appeals Board

E.M., Appellant	)	
	)	
and	)	**Docket No. 18-1599**
	)	**Issued: March 7, 2019**
U.S. POSTAL SERVICE, GENERAL MAIL FACILITY, San Antonio, TX, Employer	)	
	)	

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

Case Submitted on the Record

DECISION AND ORDER

Before:
CHRISTOPHER J. GODFREY, Chief Judge
ALEC J. KOROMILAS, Alternate Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On August 20, 2018 appellant filed a timely appeal from an August 1, 2018 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 to consider the merits of this case.

ISSUE

The issue is whether appellant has met his burden of proof to establish a right knee condition causally related to the accepted April 16, 2018 employment incident.

FACTUAL HISTORY

On April 23, 2018 appellant, then a 62-year-old general clerk, filed a traumatic injury claim (Form CA-1) alleging that on April 16, 2018 he injured his right knee while in the performance of duty. He explained that his right shoe got caught on a chair, which restrained him from getting

[1] 5 U.S.C. § 8101 *et seq.*

up and caused his right knee to pop. Appellant stopped work on April 17, 2018 and returned to work on April 22, 2018.

In an April 23, 2018 statement, D.B., a coworker, indicated that on April 16, 2018 she and appellant were in the general clerk's office discussing work that needed to be done and when he started to stand his knee popped, which D.B. heard. She asked him if he was okay, and commented that "he could not walk on it for a while." D.B. further commented that, "when appellant did walk on it, he had a limp and was in pain."

Appellant visited an Emergency Clinic on the date of the injury. The discharge notes document treatment for a "knee/lower-leg problem," noted that the pain began around 4:45 a.m., and also noted that "[appellant's] symptoms were not related to any recent trauma." The authoring nurse practitioner diagnosed "pain in right knee," and prescribed a knee immobilizer, steroidal injections, and anti-inflammatory medication.

Appellant submitted April 16, 2018 emergency clinic treatment notes, which included a right knee x-ray, discharge/home-care instructions for right knee pain and use of a knee immobilizer, a list of various prescription medications, and a note excusing him from work until April 19, 2018.

An April 16, 2018 right knee x-ray revealed mild tricompartmental degenerative change, a nonspecific, small suprapatellar joint effusion, and no evidence of an acute facture or dislocation. By way of patient history, the x-ray report noted that appellant stood up and heard a pop in his right knee and experienced generalized right knee pain. The radiology report further noted that he reported that he had his right anterior cruciate ligament removed after a prior injury and that he had ongoing joint injections.

In an April 16, 2018 note, Dr. Aruna Chhabria, a Board-certified family practitioner, advised that appellant had been treated in the emergency room that day and was released. She further advised that he should not return to work until April 19, 2018.

By development letter dated June 25, 2018, OWCP advised appellant of the deficiencies of his claim with respect to the medical evidence. It explained that the claim required a valid diagnosis and a physician's opinion explaining how the employment activities caused, contributed to, or aggravated his medical condition. OWCP afforded appellant 30 days to submit documentation, including a comprehensive narrative medical report by his attending physician. No further evidence was received.

By decision dated August 1, 2018, OWCP accepted that the April 16, 2018 employment incident occurred as alleged, but denied appellant's claim because the medical evidence of record did not contain a diagnosis in connection with the injury. Specifically, it noted that "pain" is not a diagnosis of a medical condition under FECA.

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,[2] 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.[3] 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.[4]

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.[5] Generally, 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.[6] The second component is whether the employment incident caused a personal injury.[7] 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.[8]

Causal relationship is a medical question that generally requires rationalized medical opinion evidence to resolve the issue.[9] 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.[10] 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).[11]

Certain healthcare providers such as physician assistants, nurse practitioners, physical therapists, and social workers are not considered "physician[s]" as defined under FECA.[12]

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

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

[4] *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).

[5] *D.B.*, Docket No. 18-1348 (issued January 4, 2019); *T.H.*, 59 ECAB 388, 393-94 (2008).

[6] *D.S.*, Docket No. 17-1422 (issued November 9, 2017); *Elaine Pendleton*, 40 ECAB 1143 (1989).

[7] *B.M.*, Docket No. 17-0796 (issued July 5, 2018); *John J. Carlone*, 41 ECAB 354 (1989).

[8] *D.D.*, Docket No. 18-0648 (issued October 15, 2018); *Shirley A. Temple*, 48 ECAB 404, 407 (1997).

[9] *T.H.*, *supra* note 5; *Robert G. Morris*, 48 ECAB 238 (1996).

[10] *M.V.*, Docket No. 18-0884 (issued December 28, 2018); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

[11] *Id.*

[12] 5 U.S.C. § 8101(2); 20 C.F.R. § 10.5(t).

Consequently, their medical findings and/or opinions will not suffice for purposes of establishing entitlement to FECA benefits.

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish a right knee condition causally related to the accepted April 16, 2018 employment incident.

The April 16, 2018 emergency clinic records[13] documented treatment for knee pain, and prescribed a knee brace, steroidal injections, and anti-inflammatory medication. However, "pain" is not a compensable condition for the purposes of FECA, but is rather a symptom.[14]

Appellant's April 16, 2018 right knee x-ray revealed mild tricompartmental degenerative change, a nonspecific, small suprapatellar joint effusion, and no evidence of an acute facture or dislocation, Given the often minimalistic nature of diagnostic reports (such as x-ray and magnetic resonance imaging scan readings), diagnostic studies standing alone lack probative value.[15] Here, the x-ray report lacks probative value because it does not address whether the April 16, 2018 workplace incident either caused or aggravated the identified right knee condition(s).[16]

The remainder of the April 16, 2018 medical documents do not establish an injury or condition causally related to the accepted April 16, 2018 employment incident. Although Dr. Chhabria excused appellant from work for three days, she did not provide a specific diagnosis. The discharge/home-care instructions detail self-treatment for unspecified "knee pain." As previously stated, "pain" is a symptom, not a diagnosis.[17] It is appellant's burden of proof to obtain and submit medical documentation containing a firm diagnosis, and that diagnosis must have medical evidence upon which it stands.[18] Without it, the Board finds that he has not met his burden of proof to show that he sustained any medical condition as a result of the accepted employment incident of April 16, 2018.

[13] The Board notes that the emergency clinic records were completed by a nurse practitioner. However, notes prepared by a nurse practitioner are of no probative value on the issue of causation as a nurse is not considered a physician as defined under FECA. Consequently, the nurse practitioner's medical findings and/or opinion do not satisfy appellant's burden of proof to establish a diagnosis in connection with the accepted employment incident. *K.W.*, 59 ECAB 271, 279 (2007); *David P. Sawchuk*, 57 ECAB 316, 320 n.11 (2006). A report from a physician assistant or certified nurse practitioner will be considered medical evidence if countersigned by a qualified physician. Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3a(1).

[14] *B.B.*, Docket No. 18-1036 (issued December 31, 2018).

[15] *K.L.*, Docket No. 18-1029 (issued January 9, 2019); *P.Y.*, Docket No. 18-1136 (issued January 7, 2019).

[16] *Id.*

[17] *Supra* note 11.

[18] *See M.B.*, Docket No. 17-1647 (issued April 2, 2018).

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 April 16, 2018 employment incident.

ORDER

IT IS HEREBY ORDERED THAT the August 1, 2018 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: March 7, 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