

ISSUE

The issue is whether appellant has met her burden of proof to establish a left knee condition causally related to the accepted September 4, 2016 employment incident.

FACTUAL HISTORY

On October 8, 2016 appellant, then a 55-year-old mail processing clerk, filed a traumatic injury claim (Form CA-1) alleging that on September 4, 2016 she suffered a left knee strain when she tripped and fell while in the performance of duty. On the reverse side of the claim form, the employing establishment concurred that the injury occurred while she was in the performance of duty and noted that she had not stopped work.

OWCP received an attending physician's report (Form CA-20) dated October 10, 2016, which was mostly illegible.

In a January 10, 2017 report, Dr. Clayton W. Nuelle, a Board-certified orthopedic surgeon, described that on September 4, 2016 appellant slipped on a piece of plastic binder and fell onto the concrete floor at work. He recounted her complaints of left knee intermittent pain and swelling as a result of the incident. Upon examination of appellant's left knee, Dr. Nuelle observed positive middle third medial joint line tenderness to palpation and mild effusion. He provided range of motion testing and noted positive McMurray's test for pain. Dr. Nuelle reviewed a January 10, 2017 left knee x-ray that revealed some moderate medial joint space narrowing. He also noted that appellant's October 14, 2016 left knee magnetic resonance imaging (MRI) scan showed significant chondral loss throughout the medial compartment and a large joint effusion with no obvious meniscal or ligament tears. Dr. Nuelle explained that he thought it was an "acute on chronic condition and it was greatly exacerbated by [appellant's] fall and her injury at work, she was not having any knee pain prior to this injury." He diagnosed left knee medial compartment chondromalacia.

In a development letter dated February 13, 2017, OWCP informed appellant that her claim was initially accepted as a minor injury, but it was now considering the merits of her claim because she had requested authorization for a knee brace. It advised her of the factual and medical evidence necessary to establish her claim and also provided a questionnaire for completion. OWCP afforded appellant 30 days to provide the necessary factual information and medical evidence.

Appellant underwent physical therapy and submitted daily treatment notes beginning February 10, 2017.

On March 3, 2017 OWCP received appellant's completed questionnaire dated February 19, 2017. Appellant recounted that she experienced instant pain in her left knee and that she told her supervisor that she fell on her hands and knees after her left knee got caught in a plastic binder. She noted that she first sought medical treatment on September 14, 2016 when she realized that the pain and swelling in her left knee was not going away. Appellant indicated that she had no similar, previous disability or symptoms before the injury.

Appellant submitted diagnostic testing reports. In a September 14, 2016 left knee x-ray examination report, Dr. Samir S. Ashraf, an osteopath specializing in diagnostic radiology, reported no acute bony abnormality. An October 14, 2016 left knee MRI scan revealed a large joint effusion and chondral loss medially with degenerative change.

OWCP also received an October 10, 2016 progress note by Dr. Thomas Ciolino, a Board-certified internist. Dr. Ciolino recounted that on September 4, 2016 appellant fell at work and still showed pain and swelling in her left knee. He provided examination findings and diagnosed knee injury.

In a February 28, 2017 report, Dr. Nuelle recounted that appellant still experienced left knee pain six months after a slip and fall injury at work. He reported left knee examination findings of significant tenderness to palpation on the patella, some tenderness to palpation of the iliotibial band, decreased extension, and pain with straight leg raise testing. Dr. Nuelle diagnosed continued left knee pain and recommended diagnostic arthroscopy.

By decision dated March 22, 2017, OWCP denied appellant's traumatic injury claim. It accepted that the September 4, 2016 employment incident occurred as alleged, but denied her claim finding that the evidence of record failed to establish a medical diagnosis in connection with the accepted employment incident.

On April 11, 2017 appellant, through counsel, requested a telephonic hearing before a representative of OWCP's Branch of Hearings and Review. A hearing was held on October 12, 2017.

Appellant submitted a May 30, 2017 report by Dr. Nuelle. Dr. Nuelle related that on September 4, 2016 she experienced immediate left knee pain and swelling after she sustained a fall at work. He reviewed appellant's history, including diagnostic testing, and diagnosed left knee chondromalacia. Dr. Nuelle noted his opinion on causal relationship as "aggravation." He opined: "[appellant] has an underlying condition that the work condition/injury resulted in an acute injury to the left knee that inflamed her left knee." Dr. Nuelle indicated that the pathophysiological explanation was "the direct blow that resulted from the fall on September 4, 2016 caused an increase in inflammation and exacerbated the underlying condition of chondromalacia to the left knee."

In an October 20, 2017 report, Dr. Seth L. Sherman, a Board-certified orthopedic surgeon, recounted that in September 2016 appellant sustained a slip and fall injury at work and never returned to normal. He noted her complaints of diffuse medial and lateral based pain, swelling, and mechanical symptoms daily. Dr. Sherman reviewed appellant's history and conducted an examination. He observed mild decreased mobility, mild effusion, pain patellar compression, and diffuse nonlocalizable joint line tenderness in her left knee. Dr. Sherman indicated that appellant's imaging studies were consistent with a "likely exacerbation" of her preexisting medial femoral condyle chondral disease.

An October 20, 2017 left knee MRI scan showed mild medial displacement of the mechanical axis right, greater than left.

By decision dated December 15, 2017, an OWCP hearing representative modified the March 22, 2017 decision. She found that the medical evidence of record was sufficient to establish a diagnosis of left knee chondromalacia, but denied appellant's claim finding insufficient medical evidence of record to establish that the diagnosed left knee condition was causally related to the accepted September 4, 2016 employment incident.

On October 9, 2018 appellant, through counsel, requested reconsideration and submitted additional medical evidence.

In an October 2, 2018 narrative report, Dr. Sherman reviewed appellant's history, including the September 4, 2016 employment injury and the medical treatment that she had received. He conducted an examination and noted that he was asked to discuss causal relationship between the September 4, 2016 employment injury and her current medical condition. Dr. Sherman explained that appellant likely had a preexisting, asymptomatic chondral lesion of the medial femoral condyle with underlying varus malalignment. He reported that direct blow type injuries could overload the chondral surface and cause subchondral edema, which may render a previously asymptomatic lesion symptomatic. Dr. Sherman related that the October 14, 2016 left knee MRI scan showed a subchondral edema within the lesion bed that can be consistent with overload after an impaction type work injury. He explained that chondral lesions, in general, may be symptomatic or asymptotic and that direct blow type injuries can overload the chondral surface and cause subchondral edema which may render a previously asymptomatic lesion symptomatic, requiring intervention. Dr. Sherman noted his review of the diagnostic testing of record and opined that it is likely that the work-related traumatic injury caused this lesion to become symptomatic, requiring substantial, and continued treatment.

By decision dated March 5, 2019, OWCP denied modification of the December 15, 2017 decision.

LEGAL PRECEDENT

An employee seeking benefits under FECA³ 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,⁴ 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

³ *Id.*

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

the employment injury.⁵ 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.⁶

In order to determine whether a federal employee has sustained a traumatic injury in the performance of duty, OWCP must first determine whether fact of injury has been established.⁷ There are two components involved in establishing fact of injury. 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.⁸ Second, the employee must submit evidence, generally only in the form of probative medical evidence, to establish that the employment incident caused a personal injury.⁹

To establish causal relationship between the condition, as well as any attendant disability claimed and the employment event or incident, the employee must submit rationalized medical opinion evidence.¹⁰ The opinion of the physician must be based on a complete factual and medical background of the employee, 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 factor(s) identified by the employee.¹¹ The weight of the medical evidence is determined by its reliability, its probative value, its convincing quality, the care of analysis manifested, and the medical rationale expressed in support of the physician's opinion.¹²

In any case where a preexisting condition involving the same part of the body is present and the issue of causal relationship therefore involves aggravation, acceleration, or precipitation, the physician must provide a rationalized medical opinion that differentiates between the effects of the work-related injury or disease and the preexisting condition.¹³

ANALYSIS

The Board finds that this case is not in posture for decision.

⁵ *J.M.*, Docket No. 17-0284 (issued February 7, 2018); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

⁶ *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).

⁷ *D.B.*, Docket No. 18-1348 (issued January 4, 2019); *S.P.*, 59 ECAB 184 (2007).

⁸ *D.S.*, Docket No. 17-1422 (issued November 9, 2017); *Bonnie A. Contreras*, 57 ECAB 364 (2006).

⁹ *B.M.*, Docket No. 17-0796 (issued July 5, 2018); *David Apgar*, 57 ECAB 137 (2005); *John J. Carlone*, 41 ECAB 354 (1989).

¹⁰ *See S.A.*, Docket No. 18-0399 (issued October 16, 2018); *see also Robert G. Morris*, 48 ECAB 238 (1996).

¹¹ *M.V.*, Docket No. 18-0884 (issued December 28, 2018); *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 345 (1989).

¹² *James Mack*, 43 ECAB 321 (1991).

¹³ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3e (January 2013).

In support of her claim appellant provided narrative medical reports from Dr. Nuelle in which he provided his opinion as to the cause of her diagnosed left knee condition relative to the accepted September 4, 2016 employment incident. OWCP has accepted that she slipped on a piece of a plastic binder and fell onto the concrete floor at work.

Initially, Dr. Nuelle acknowledged that appellant had an underlying condition, but that the employment incident on September 4, 2016 resulted in an acute injury to the left knee that inflamed her left knee. He then indicated that the pathophysiological explanation was “the direct blow that resulted from the fall on September 4, 2016 caused an increase in inflammation and exacerbated the underlying condition of chondromalacia to the left knee.” Dr. Nuelle’s opinion demonstrates his knowledge of the preexisting left knee condition and provides an explanation as to how that condition was made worse by the fall, beyond the expected progression of the condition.

Appellant also submitted medical evidence on the issue of causal relationship from Dr. Sherman. In his October 2, 2018 narrative report, Dr. Sherman reported that direct blow type injuries, as she had sustained, could overload the chondral surface and cause subchondral edema, which may render a previously asymptomatic lesion symptomatic. He noted that the October 14, 2016 left knee MRI scan showed a subchondral edema within the lesion bed, consistent with overload after an impaction type employment injury. Dr. Sherman also provided an explanation as to the pathophysiological cause of appellant’s left knee condition. He explained that chondral lesions, in general, may be symptomatic or asymptotic and that direct blow type injuries can overload the chondral surface and cause subchondral edema which may render a previously asymptomatic lesion symptomatic, requiring intervention. Dr. Sherman noted his review of the diagnostic testing of record and opined that it is likely that the work-related traumatic injury caused this lesion to become symptomatic, requiring substantial, and continued treatment.

The Board finds that, when read together, the reports of Dr. Nuelle and Dr. Sherman are sufficient to require further development of the medical evidence to see that justice is done.¹⁴ Both physicians are qualified in their field to render rationalized opinions on causal relationship, they explain that appellant’s preexisting condition was aggravated beyond what would be expected from a normal progression, and they each provided a pathophysiologic explanation instructing as to the mechanism of injury causing the current condition.

On remand OWCP shall refer appellant to an appropriate specialist, along with the case record and a statement of accepted facts. Its referral physician shall conduct a physical evaluation and provide a rationalized medical opinion as to whether her left knee condition was caused or aggravated by the accepted September 4, 2016 employment incident. After such further development of the case record as OWCP deems necessary, it shall issue a *de novo* decision.

CONCLUSION

The Board finds that this case is not in posture for decision.

¹⁴ *D.S.*, Docket No. 17-1359 (issued May 3, 2019); *X.V.*, Docket No. 18-1360 (issued April 12, 2019); *C.M.*, Docket No. 17-1977 (issued January 29, 2019); *William J. Cantrell*, 34 ECAB 1223 (1983).

ORDER

IT IS HEREBY ORDERED THAT the March 5, 2019 decision of the Office of Workers' Compensation Programs is set aside and the case is remanded for further development consistent with this order of the Board.

Issued: October 24, 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