



## ISSUE

The issue is whether appellant has met his burden of proof to establish a right knee condition causally related to the accepted May 31, 2017 employment incident.

## FACTUAL HISTORY

On August 4, 2017 appellant, then a 56-year-old nursing assistant, filed a traumatic injury claim (Form CA-1) alleging that on May 31, 2017 he injured his right leg/knee while in the performance of duty. He indicated that he had been participating in cardiopulmonary resuscitation (CPR) training and then fainted and fell unconscious. On the reverse side of the claim form, the employing establishment indicated that the injury occurred while in the performance of duty. In a separate August 4, 2017 letter, it controverted appellant's claim, noting that he had not provided any medical documentation.

OWCP received a handwritten August 3, 2017 employee health record by a provider with an illegible signature. It noted that appellant was seeking medical treatment for a "new injury" that he sustained while he was completing his CPR training on May 31, 2017.

In an August 8, 2017 development letter, OWCP informed appellant that the evidence of record was insufficient to establish his claim. It advised him of the factual and medical evidence necessary to establish his claim and also provided a questionnaire for completion. OWCP afforded appellant 30 days to provide the necessary evidence. By separate letter of even date, it requested additional information from the employing establishment.

OWCP received a May 31, 2017 emergency room intake report indicated that appellant was completing CPR training when he became dizzy and had a one minute period of syncope. Appellant also complained of minor aching in his left leg related to how he fell on it. He was diagnosed with probable vasovagal syncope episode.

A July 31, 2017 right knee magnetic resonance imaging (MRI) scan report revealed a pes anserine bursa with underlying osseous venous congestion, small Baker's cyst, moderate knee effusion, and attenuated size of the medial meniscus at junction of the body and posterior horn, consistent with meniscal tear.

Appellant submitted progress notes by Dr. Paul Kiritsis, a Board-certified orthopedic surgeon, dated July 28 and August 4, 2017. In a July 28, 2017 progress note, Dr. Kiritsis indicated that he evaluated appellant for a right knee injury that occurred about one month ago when he passed out at work. He recounted appellant's complaints of pain and associated swelling over the medial knee. Upon examination of appellant's right knee, Dr. Kiritsis observed slight effusion and tenderness over the medial joint line. McMurray test was positive medially. Dr. Kiritsis diagnosed right knee pain and lytic lesion of bone. In an August 4, 2017 progress note, he indicated that a right knee MRI scan had showed a complex tear of appellant's medial meniscus.

In an August 14, 2017 report, Dr. Gregory F. Domson, a Board-certified orthopedic surgeon, recounted appellant's complaints of right knee pain and right proximal tibial lesion. He described that appellant was participating in CPR training at work when he got lightheaded and

passed out. Appellant indicated that he experienced acute onset of right knee pain. Dr. Domson reported that a subsequent right knee MRI scan showed that appellant had a medial meniscus tear and lesion in the proximal tibia medially. Upon examination of appellant's right knee, he observed tenderness to palpation over the medial joint line especially posteriorly. Dr. Domson opined that appellant had a medial meniscal tear that was "most likely related to his injury."

An August 23, 2017 right knee MRI scan report showed a mass lesion along the medial aspect of the tibia compatible with a pes anserine bursa, complex tearing of the posterior horn medial meniscus, and small focal areas of the avascular necrosis.

In an August 25, 2017 report, Dr. Domson indicated that he did not think that the cystic lesion on the most recent MRI scan was anything new and that it did not contribute to appellant's medial meniscal tear that he sustained at work.

In a September 7, 2017 note, Dr. Kiritsis reported that appellant would be out of work from July 27 to September 29, 2017 due to his knee condition.

By decision dated September 12, 2017, OWCP denied appellant's claim. It accepted that the May 31, 2017 incident occurred as alleged and that a right knee condition had been diagnosed. However, OWCP found that appellant failed to establish that the alleged injury occurred while in the performance of duty. It noted that he had not responded to the questionnaire and had not provided a statement clarifying the circumstances of the May 31, 2017 employment injury.

On September 20, 2017 appellant, through counsel, requested a telephonic hearing before a representative of OWCP's Branch of Hearings and Review and submitted additional medical evidence.

In a June 7, 2017 report, Dr. Eric Haacke-Golden, a Board-certified family physician, indicated that appellant had passed out at work during CPR training. Dr. Haacke-Golden related that appellant received medical treatment in the emergency room.

In a September 14, 2017 progress note, Dr. Kiritsis recounted that appellant's right knee symptoms remained persistent. Examination of his right knee demonstrated medial joint line tenderness and effusion. Dr. Kiritsis diagnosed right medial meniscus tear.

On September 20, 2017 appellant underwent right knee arthroscopy surgery with medial meniscectomy.

In a September 28, 2017 postoperative report, Dr. Kiritsis noted right knee examination findings of slight effusion and stable and balanced range of motion. He diagnosed right acute medial meniscus tear.

A hearing was held on February 6, 2018. By decision dated March 22, 2018, OWCP's hearing representative set aside the September 12, 2017 decision and remanded the case for OWCP to request a statement from the employing establishment concerning the circumstances of the May 31, 2017 incident in order to determine whether appellant's fall was due to an idiopathic condition. The hearing representative also instructed OWCP to request a medical opinion from Dr. Haacke-Golden regarding the cause of appellant's right leg condition.

After further developing the evidence, OWCP received an April 24, 2018 letter by Dr. Haacke-Golden. Dr. Haacke-Golden reported that he had not seen appellant since he had a syncopal event on the job last year related to CPR training. He explained that he continued to believe that this incident was a vasovagal event and also opined that appellant's meniscal tear was related to the fall he had during the syncopal event of May 31, 2017. Dr. Eric Haacke-Golden reported that he did not evaluate appellant's knee, but had orthopedic notes available.

In an April 25, 2018 letter, a workers' compensation case manager indicated that the room where the CPR certification occurred on May 31, 2017 was warm according to the nurse manager.

By decision dated June 7, 2018, OWCP denied appellant's claim. It accepted that the May 31, 2017 employment incident occurred while in the performance of duty as alleged, but it denied appellant's claim finding that the medical evidence submitted was insufficient to establish that his right leg condition was causally related to the accepted May 31, 2017 employment incident.

On June 14, 2018 appellant, through counsel, requested a hearing before a representative of OWCP's Branch of Hearings and Review and submitted additional evidence.

In an October 6, 2018 letter, Dr. Haacke-Golden indicated that he was providing more information to show causal relationship. He described that performing CPR required performing chest compressions on models on the floor. Dr. Haacke-Golden recounted that when appellant's floor training was complete, he stood up, felt light headed, and fainted. He quoted the definition of a vasovagal syncope from the Cleveland Clinic website and noted that it was caused by a sudden drop in blood pressure, which caused a drop in blood flow to the brain. Dr. Haacke-Golden reported that in appellant's case, when he stood up after giving compressions, he had a drop in blood pressure to his brain and to compensate for that, he fell to his knees and then to the floor, passing out. He opined that he also felt that this trauma caused the meniscal tear that he had been treated for by orthopedics and that there was a "cause and effect relationship between these events." Dr. Haacke-Golden concluded that performing compressions on the CPR model, a work-related activity, and the subsequent getting up off the ground after this exertion lead to a syncopal event that resulted in appellant falling to the floor, traumatizing his knee.

In a January 14, 2019 letter, Dr. Kiritsis recounted that appellant was initially seen in his office on July 27, 2017 for a right knee injury that occurred after he passed out at work on May 31, 2017. He indicated that appellant began experiencing immediate right knee discomfort that was diagnosed as a medial meniscal tear and subsequently underwent an arthroscopic procedure where the medial meniscal tear was debrided. Dr. Kiritsis opined that appellant's injury was directly caused by his accident at work and necessitated the arthroscopic surgery.

A hearing was held on November 28, 2018. By decision dated February 4, 2019, OWCP's hearing representative affirmed the June 7, 2018 decision. He found that medical evidence of record was insufficient to establish that appellant's right knee condition was causally related to the accepted May 31, 2017 employment incident or due to an idiopathic condition. Therefore, the hearing representative found that the fall was considered unexplained and to have occurred in the performance of duty.

## LEGAL PRECEDENT

An employee seeking benefits under FECA<sup>3</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 timely filed within the applicable time limitation 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>

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.<sup>7</sup> 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.<sup>8</sup> 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.<sup>9</sup>

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.<sup>10</sup> 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.<sup>11</sup> The weight of the medical

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<sup>3</sup> *Id.*

<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).

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

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

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

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

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

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.<sup>12</sup>

It is a well-settled principle of workers' compensation law, and the Board has so held, that an injury resulting from an idiopathic fall -- where a personal, nonoccupational pathology causes an employee to collapse and to suffer injury upon striking the immediate supporting surface, and there is no intervention or contribution by any hazard or special condition of employment -- is not within coverage of FECA.<sup>13</sup> Such an injury does not arise out of a risk connected with the employment and is, therefore, not compensable. The Board has made equally clear, the fact that the cause of a particular fall cannot be ascertained or that the reason it occurred cannot be explained, does not establish that it was due to an idiopathic condition.

This follows from the general rule that an injury occurring on the industrial premises during working hours is compensable unless the injury is established to be within an exception to such general rule.<sup>14</sup> If the record does not establish that the particular fall was due to an idiopathic condition, it must be considered as merely an unexplained fall, one which is distinguishable from a fall in which it is definitely proved that a physical condition preexisted and caused the fall.<sup>15</sup>

### ANALYSIS

The Board finds that appellant has not met his burden of proof to establish a right knee condition causally related to the accepted May 31, 2017 employment incident.

Appellant submitted a series of reports from Dr. Kiritsis dated July 28, 2017 through January 14, 2019. In his initial examination report, Dr. Kiritsis described the May 31, 2017 employment incident and noted right knee examination findings of slight effusion and tenderness over the medial joint line. He diagnosed right knee pain, lytic lesion of the bone, and tear of the medial meniscus. In a January 14, 2019 letter, Dr. Kiritsis opined that appellant's injury was directly caused by his accident at work. He did not, however, provide any rationale or explanation for how appellant's right knee condition was causally related to the accepted employment incident. The Board has held that reports are of limited probative value regarding causal relationship if it does not contain medical rationale explaining how a given medical condition/disability was related to employment factors.<sup>16</sup> Dr. Kiritsis' opinion, therefore, is insufficient to establish the claim.<sup>17</sup>

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<sup>12</sup> *James Mack*, 43 ECAB 321 (1991).

<sup>13</sup> *H.B.*, Docket No. 18-0278 (issued June 20, 2018); *see Carol A. Lyles*, 57 ECAB 265 (2005).

<sup>14</sup> *H.B.*; *id.*; *Dora J. Ward*, 43 ECAB 767, 769 (1992); *Fay Leiter*, 35 ECAB 176, 182 (1983).

<sup>15</sup> *H.B.*; *id.*; *John R. Black*, 49 ECAB 624 (1998); *Judy Bryant*, 40 ECAB 207 (1988); *Martha G. List*, 26 ECAB 200 (1974).

<sup>16</sup> *See Y.D.*, Docket No. 16-1896 (issued February 10, 2017); *T.M.*, Docket No. 08-975 (February 6, 2009); *S.E.*, Docket No. 08-2214 (issued May 6, 2009).

<sup>17</sup> *T.R.*, Docket No. 18-1272 (issued February 15, 2019); *K.T.*, Docket No. 15-1758 (issued May 24, 2016).

Appellant also received medical treatment from Dr. Domson dated August 24 through 25, 2017. Dr. Domson recounted that appellant experienced acute onset of right knee pain after he passed out while participating in a CPR training class at work. He provided examination findings and noted that a right knee MRI scan showed that appellant had a medial meniscus tear and lesion in the proximal tibia. Dr. Domson opined that appellant's medial meniscus tear was "most likely related" to his injury. The Board has held that medical opinions that are speculative or equivocal in character are of diminished probative value.<sup>18</sup> Dr. Domson's reports, therefore, are insufficient to establish appellant's claim.<sup>19</sup>

OWCP also received several letters from Dr. Haacke-Golden dated April 24 and October 6, 2018. Dr. Haacke-Golden described the May 31, 2017 employment incident and also opined that appellant's meniscal tear was related to that syncopal event. He further explained that appellant fell to the floor and landed first on his knees. Dr. Haacke-Golden opined that this trauma caused appellant's meniscal tear. Although he attributed appellant's right meniscal tear to the May 31, 2017 employment incident, the Board finds that his report does not contain sufficient explanation, based on medical rationale, of how falling on his knees caused or contributed to his right knee condition.<sup>20</sup> Dr. Haacke-Golden did not explain the pathophysiological process of how falling onto his knees would have caused his right knee condition.<sup>21</sup> His opinion, therefore, is insufficient to establish his claim.

The diagnostic testing, including the July 31 and August 23, 2017 right knee MRI scan reports also fail to establish appellant's claim as they did not provide an opinion on the cause of appellant's conditions. The Board has held that reports of diagnostic tests lack probative value as they do not provide an opinion on causal relationship between appellant's employment incident and a diagnosed condition.<sup>22</sup>

On appeal counsel argues that OWCP failed to adjudicate the claim in accordance with the proper standard of causation and failed to give due deference to the findings of the attending physician. He did not, however, provide any evidence to support his arguments. In order to obtain benefits under FECA, an employee has the burden of proof to establish the essential elements of his or her claim by the weight of the reliable, probative, and substantial evidence.<sup>23</sup> Because appellant has not provided such evidence, he has not met his burden of proof to establish his traumatic injury claim.

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<sup>18</sup> *D.B.*, Docket No. 18-1359 (issued May 14, 2019); *Ricky S. Storms*, 52 ECAB 349 (2001) (while the opinion of a physician supporting causal relationship need not be one of absolute medical certainty, the opinion must not be speculative or equivocal. The opinion should be expressed in terms of a reasonable degree of medical certainty).

<sup>19</sup> *See P.D.*, Docket No. 18-1461 (issued July 2, 2019).

<sup>20</sup> *See I.S.*, Docket No. 18-0606 (issued August 2, 2019); *S.S.*, Docket No. 16-1760 (issued January 23, 2018).

<sup>21</sup> *See R.G.*, Docket No. 19-0233 (issued July 16, 2019); *B.T.*, Docket No. 13-0138 (issued March 20, 2013).

<sup>22</sup> *T.H.*, Docket No. 18-1736 (issued March 13, 2019); *A.B.*, Docket No. 17-0301 (issued May 19, 2017).

<sup>23</sup> *Supra* note 5.

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 May 31, 2017 employment incident.

**ORDER**

**IT IS HEREBY ORDERED THAT** the February 4, 2019 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: October 25, 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