



## **ISSUE**

The issue is whether appellant has met her burden of proof to establish a right knee condition causally related to the accepted December 19, 2017 employment incident.

## **FACTUAL HISTORY**

On December 19, 2017 appellant, then a 58-year-old letter carrier, filed a traumatic injury claim (Form CA-1) alleging that, on that date, she was descending stairs to deliver a package and felt pain in the back of her right knee while in the performance of duty. She did not stop work following the alleged injury. On the reverse side of the claim form, the employing establishment noted that appellant was in the performance of duty when injured, but also controverted her entitlement to continuation of pay, noting that she previously fell down her stairs at home and had been out of work for at least four weeks.

On December 19, 2017 the employing establishment executed an authorization for examination and/or treatment (Form CA-16) with respect to appellant's claimed right knee injury.

Appellant submitted a series of duty status reports (CA-17) and/or physician work activity status reports from Dr. Roy E. Hall, a Board-certified family practitioner. Dr. Hall initially examined appellant on December 19, 2017 and diagnosed right knee sprain. He referred appellant for physical therapy and advised that she was unable to work for at least two days.

In a report dated December 21, 2017, Dr. Hall examined appellant's right knee, noting tenderness over the anterior and posterior knee and painful range of motion. He diagnosed right knee sprain and recommended a return to work with restrictions.

On December 28, 2017 Dr. Hall noted that appellant's right posterior knee symptoms were improving. On examination of the right knee, he observed mild posterior swelling and mild diffuse tenderness over the posterior knee. Dr. Hall diagnosed right knee sprain and noted that appellant was approximately 50 percent of the way to meeting the physical requirements of her job.

In an unsigned work activity status report dated December 28, 2017, it was recommended that appellant return to work on December 28, 2017 with restrictions of sitting 40 percent of the time, weight-bearing as tolerated, and no squatting, kneeling, climbing chairs, or climbing ladders.

In a development letter dated January 12, 2018, OWCP informed appellant that she had not submitted sufficient factual or medical evidence to establish her claim. It advised her of the type of evidence needed and provided a questionnaire for her completion. OWCP afforded appellant 30 days to respond.

In a narrative statement dated January 31, 2018, appellant explained that she had fallen down stairs at a relative's house on November 5, 2017 and sustained a stress fracture to her left foot. She explained that on December 19, 2017 she felt a pull at the back of her right knee while descending basement steps at an apartment building to deliver a package while in the performance of duty. Appellant clarified that she had not sustained her right knee injury from a fall, but from walking down the basement stairs.

In reports dated November 6 through 27, 2017, Dr. Marieli Colon, a podiatric surgery specialist, diagnosed a stress fracture of the left foot and localized edema. On December 29, 2017 she reiterated these diagnoses and recommended that appellant continue to wear a brace daily.

OWCP received a January 4, 2018 follow-up report from Dr. Hall who noted that appellant's right knee symptoms had improved. Dr. Hall diagnosed right knee sprain and recommended continued work restrictions.

OWCP also received physical therapy notes dated December 20, 2017 through January 11, 2018.

In a report dated January 11, 2018, Dr. Arlene Emmons, an occupational medicine specialist, examined appellant for complaints of right knee pain. She noted improved symptoms on examination, including diffuse tenderness over the anteromedial, lateral, and posterior knee. Dr. Emmons diagnosed right knee sprain and recommended continued work restrictions.

On January 16, 2018 Dr. Mah-Fri Fomukong, a Board-certified family practitioner, examined appellant for complaints of right knee pain. On examination of the right knee, she observed mild diffuse tenderness over the lateral and medial knee. Dr. Fomukong noted that appellant had reached her functional goal and recommended a trial of returning to full duty without restrictions. She related that physical therapy notes indicated that appellant had reached 100 percent of her goals on all examinations.

In a report dated January 24, 2018, Dr. Fomukong noted that appellant's subjective right knee symptoms had worsened. On examination, she observed normal appearance, no deformity, no tenderness, full range of motion, and full strength. Dr. Fomukong diagnosed right knee sprain and ordered a magnetic resonance imaging (MRI) scan.

In an attending physician's report (Form CA-20) dated February 12, 2018, Dr. Hall noted that appellant had told him that she had walked down stairs and suddenly experienced knee pain. He diagnosed right knee sprain, but left boxes indicating whether he believed appellant's condition was caused or aggravated by employment activity unchecked, noting that he was unsure what caused the knee to begin hurting. Dr. Hall noted that appellant was able to resume regular work on January 16, 2018.

In a note dated February 9, 2018, Dr. Fomukong diagnosed right knee sprain, reported that appellant was released from care, and recommended that she return to regular-duty work on that date.

By decision dated February 15, 2018, OWCP denied appellant's claim, finding that she had not submitted sufficient evidence to meet her burden of proof to establish causal relationship between her diagnosed condition and the accepted December 19, 2017 employment incident.

OWCP subsequently received a December 19, 2017 narrative report from Dr. Hall who examined appellant for complaints of right knee pain after stepping down from stairs the wrong way at work on that date. Dr. Hall noted that appellant had walked down stairs and suddenly experienced sharp pain in her right knee, which had not improved. On examination of the right knee, he observed diffuse tenderness over the anterior and posterior knee, as well as pain on range

of motion testing. Dr. Hall diagnosed right knee sprain, referred appellant for physical therapy, and recommended that she remain off work.

In a follow-up report dated February 9, 2018, Dr. Fomukong noted that appellant's symptoms were improving. On examination of the right knee she observed normal appearance, no deformity, no tenderness, full range of motion, and full strength. Dr. Fomukong advised that there was no indication for a referral at that time because her physical examination was normal. She opined that appellant had reached maximum medical improvement and that she was released from care.

In a letter dated February 23, 2018, Dr. Hall opined that appellant's pain occurred while she was walking down stairs at work. He reported that even though he could not explain how or why walking down stairs caused her right knee injury, according to appellant, it did occur while she was walking down stairs at work.

On February 26, 2018 appellant requested a review of the written record before a representative of OWCP's Branch of Hearings and Review.

By decision dated July 2, 2018, the hearing representative affirmed OWCP's February 15, 2018 decision. He found that the opinion contained in Dr. Hall's February 23, 2018 letter was equivocal in nature and insufficient to establish appellant's claim for a medical condition causally related to the accepted incident of December 19, 2017.

An August 14, 2018 right knee MRI scan demonstrated a near complete radial tear near the posterior root attachment of the medial meniscus with horizontal extension into the meniscal body and associated peripheral extrusion and inflammation along the medial joint line; grade III/IV chondromalacia of the weight-bearing medial compartment; grade II/III chondromalacia of the patella; grade II chondromalacia of the weight-bearing lateral compartment; small knee joint effusion with synovitis; and a small popliteal cyst.

On December 5, 2018 appellant, through counsel, requested reconsideration of OWCP's July 2, 2018 decision. Counsel enclosed reports from Dr. Hall dated November 19, 2018 and November 23, 2018. In the November 19, 2018 report, Dr. Hall recalled that, on December 19, 2017, appellant had relayed that she was walking down steps and suddenly felt sharp pain in her knee without falling, twisting, or tripping. He indicated that appellant was descending stairs normally and felt pain in her knee. Dr. Hall noted that, with this information, he could not, with any certainty, describe the physical process of how walking down stairs could have caused her diagnosed condition. The report dated November 23, 2018 was a duplicate of Dr. Hall's letter dated February 23, 2018.

By decision dated March 5, 2019, OWCP denied modification of the prior decision.

### **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 of FECA, 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>3</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>4</sup>

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. 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.<sup>5</sup> The second component is whether the employment incident caused a personal injury.<sup>6</sup>

Causal relationship is a medical question that generally requires rationalized medical opinion evidence to resolve the issue. A physician's opinion on whether there is causal relationship between the diagnosed condition and the implicated employment incident must be based on a complete factual and medical background. Additionally, the physician's opinion must be expressed in terms of a reasonable degree of medical certainty and must be supported by medical rationale that explains the nature of the relationship between the diagnosed condition and appellant's employment incident.<sup>7</sup>

### 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 19, 2017 employment incident.

On December 19, 2017 Dr. Hall noted that appellant had walked down stairs and suddenly had sharp pain in her right knee, which had not improved. He diagnosed right knee sprain and referred her for physical therapy. On February 12, 2018 Dr. Hall noted that appellant had informed him that she had walked down stairs and suddenly experienced knee pain. He diagnosed right knee sprain and left boxes indicating whether he believed appellant's condition was caused or aggravated by employment activity unchecked, noting that he was unsure what caused the knee to begin hurting. On February 23, 2018 Dr. Hall opined that appellant's pain occurred while she was walking down stairs at work, but he could not explain how or why walking down stairs caused her knee injury. On November 19, 2018 he noted that he could not, with any certainty, describe the physical process of how walking down stairs could have caused her diagnosed condition. None of these medical reports offer an opinion as to whether the accepted employment incident either caused or had not caused appellant's diagnosed conditions. The Board has held that medical evidence that does not offer an opinion regarding the cause of an employee's condition is of no

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<sup>3</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>4</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>5</sup> *M.A.*, Docket No. 19-0656 (issued September 13, 2019); *D.S.*, Docket No. 17-1422 (issued November 9, 2017); *Elaine Pendleton*, 40 ECAB 1143 (1989).

<sup>6</sup> *M.H.*, Docket No. 18-1737 (issued March 13, 2019); *John J. Carlone*, 41 ECAB 354 (1989).

<sup>7</sup> *S.S.*, Docket No. 18-1488 (issued March 11, 2019).

probative value on the issue of causal relationship.<sup>8</sup> These reports, therefore, are insufficient to establish appellant's claim.

Appellant also submitted reports from Dr. Emmons dated January 11, 2018; from Dr. Fomukong dated January 16 and 24, and February 9, 2018; and from Dr. Colon dated December 29, 2017. However, these reports did not include opinions regarding causal relationship between appellant's right knee condition and the accepted employment incident of December 19, 2017. These reports are therefore insufficient to establish appellant's claim.<sup>9</sup>

Appellant also submitted a work activity status report dated December 28, 2017 that was unsigned. The Board has held, a report that is unsigned or bears an illegible signature lacks proper identification and cannot be considered probative medical evidence.<sup>10</sup> This report therefore is insufficient to establish the claim.

The record also includes a diagnostic report dated August 14, 2018. However, diagnostic testing reports lack probative value on the issue of causal relationship as they do not provide an opinion regarding the cause of the diagnosed conditions.<sup>11</sup>

The physical therapy notes dated December 20, 2017 through January 11, 2018 are also insufficient to establish appellant's burden of proof. Certain healthcare providers such as physician assistants, nurse practitioners, physical therapists, and social workers are not considered "physician[s]" as defined under FECA.<sup>12</sup> Consequently, their medical findings and/or opinions will not suffice for purposes of establishing entitlement to FECA benefits.<sup>13</sup>

The Board finds that because appellant has not submitted medical evidence providing a rationalized medical opinion that her diagnosed right knee condition was causally related to the accepted December 19, 2017 employment incident, 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.

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<sup>8</sup> See *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

<sup>9</sup> See *L.T.*, Docket No. 18-1603 (issued February 21, 2019).

<sup>10</sup> See *L.M.*, Docket No. 18-0473 (issued October 22, 2018); *Merton J. Sills*, 39 ECAB 572, 575 (1988).

<sup>11</sup> See *L.M.*, Docket No. 14-0973 (issued August 25, 2014); *R.G.*, Docket No. 14-0113 (issued April 25, 2014); *K.M.*, Docket No. 13-1459 (issued December 5, 2013); *A.J.*, Docket No. 12-0548 (issued November 16, 2012).

<sup>12</sup> 5 U.S.C. § 8101(2); 20 C.F.R. § 10.5(t).

<sup>13</sup> See *M.F.*, Docket No. 17-1973 (issued December 31, 2018); *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) (January 2013).

**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 19, 2017 employment incident.

**ORDER**

**IT IS HEREBY ORDERED THAT** the March 5, 2019 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: October 21, 2019  
Washington, DC

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

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

Janice B. Askin, Judge  
Employees' Compensation Appeals Board