

FACTUAL HISTORY

On December 11, 2015 appellant, then a 44-year-old police officer, filed a traumatic injury claim (Form CA-1) alleging that, on March 25, 2014 when running on the track for a mandatory fitness improvement program, he tore the meniscus in his left knee while in the performance of duty. The employing establishment acknowledged that he had been injured in the performance of duty and that its knowledge of the facts about the injury was consistent with his account.

OWCP received a December 3, 2015 duty status report (Form CA-17) from a physician assistant who noted that appellant was running during mandatory training and tore his left knee meniscus.

OWCP received activity restrictions from a physician assistant, dated January 26, 2015, of no use of the left knee.

In a development letter dated December 21, 2015, OWCP informed appellant of the deficiencies in the evidence it received and requested that he respond to an attached questionnaire. It afforded him 30 days to respond.

In a development letter also dated December 21, 2015, OWCP requested that the employing establishment respond to factual inquiries regarding appellant's claim.

There was no response from either party for the requested for information.

By decision dated January 22, 2016, OWCP denied appellant's claim. It explained that the claim was denied on the medical component of the third basic element, fact of injury because the medical evidence submitted was insufficient to establish that a medical condition was diagnosed in connection with the accepted employment incident. OWCP concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

In a January 22, 2016 response, S.B., a human resources specialist with the employing establishment, confirmed that the track that appellant was running on was on Federal Government property and that he was required to participate in the activity as part of his training. She provided a July 8, 2009 memorandum from S.C., the Director describing the employing establishment's occupational medical and fitness program. Additionally, a copy of the law enforcement and security personnel physical fitness program was submitted.

On April 4, 2016 appellant requested reconsideration and submitted additional evidence.

In a January 14, 2016 duty status report (Form CA-17) and a January 21, 2016 attending physician's report (Form CA-20), Dr. John Byrne, an internist, noted the history of appellant's injury which occurred on March 25, 2014 and diagnosed a medial meniscal tear. He also noted that a magnetic resonance imaging (MRI) scan revealed a torn medial meniscus and diagnosed a tear of the medial meniscus of the knee, current. Dr. Byrne checked a box marked "yes" in response to whether he believed that the diagnosed condition had been caused or aggravated by an employment activity. He commented that appellant had "no problem before work injury." Dr. Byrne provided restrictions of no running, jumping, kneeling, walking, or standing for more than one hour.

By decision dated June 29, 2016, OWCP denied modification of the prior decision.

On August 9, 2016 appellant requested reconsideration and submitted additional evidence. OWCP received a copy of the December 3, 2015 report and January 14, 2016 report, by a physician assistant and Dr. Byrne, respectively, both of which were previously of record.

By decision dated October 6, 2016, OWCP denied appellant's request for reconsideration finding that the evidence submitted was cumulative and substantially similar to evidence or documentation already in the case file and previously considered. It therefore found that the evidence was insufficient to warrant a merit review of its prior decision.

On May 15, 2017 appellant, through counsel, requested reconsideration and submitted new medical evidence in support of appellant's claim.

In a March 30, 2017 report, Dr. Byrne explained that appellant had been treated since May 2014 after he injured his knee in 2014 while participating in a training exercise for his position of a law enforcement officer for the employing establishment. He related that at the time of injury appellant had pain, swelling, and locking consistent with a meniscal tear. Dr. Byrne advised that appellant had persistent symptoms since that employment incident and unfortunately, even though nonoperative conservative treatment was instituted, the results of appellant's MRI scan showed a meniscal tear. He noted that there was a prolonged period of time trying to obtain approval from OWCP for treatment. Dr. Byrne diagnosed medial meniscus tear post knee strain and recommended arthroscopic intervention. He opined "within a reasonable degree of medical certainty that his issues ... are work related, secondary to the injury as outlined."

By decision dated August 1, 2017, OWCP denied modification.

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,³ 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.⁴ 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.⁵

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

³ *S.B.*, Docket No. 17-1779 (issued February 7, 2018); *J.P.*, 59 ECAB 178 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

⁴ *J.M.*, Docket No. 17-0284 (issued February 7, 2018); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

⁵ *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).

occurred.⁶ The second component is whether the employment incident caused a personal injury. 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.⁷

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 supporting such causal relationship.⁸ Causal relationship is a medical issue, and the medical evidence required to establish causal relationship is rationalized medical evidence.⁹ 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.¹⁰ 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.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 Consequently, their medical findings and/or opinions will not suffice for purposes of establishing entitlement to FECA benefits.¹³

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish a left knee condition causally related to the accepted March 25, 2014 employment incident.

In support of his claim appellant submitted several medical reports from Dr. Byrne. He provided a January 14, 2016 duty status report (Form CA-17) and a January 21, 2016 attending physician’s report (Form CA-20) and noted that the injury occurred on March 25, 2014 and diagnosed a median meniscal tear. However, Dr. Byrne did not provide an opinion on causal relationship. The Board has held that medical evidence that does not offer an opinion regarding

⁶ *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁷ *Shirley A. Temple*, 48 ECAB 404, 407 (1997).

⁸ *J.L.*, Docket No. 18-0698 (issued November 5, 2018); *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 465 (2005).

⁹ *L.D.*, Docket No. 17-1581 (issued January 23, 2018); *Jacqueline M. Nixon-Steward*, 52 ECAB 140 (2000).

¹⁰ *L.D.*, *id.*; *see also Leslie C. Moore*, 52 ECAB 132 (2000); *Gary L. Fowler*, 45 ECAB 365 (1994).

¹¹ *T.H.*, Docket No. 18-1736 (issued March 13, 2019); *Dennis M. Mascarenas*, 49 ECAB 215 (1997).

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

¹³ *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).

the cause of an employee's condition is of no probative value on the issue of causal relationship.¹⁴ These reports therefore are insufficient to establish appellant's claim.

In his January 21, 2016 report, Dr. Byrne noted that left knee MRI scan revealed a torn medial meniscus. He diagnosed a tear of the medial meniscus of the knee, current. He checked a box marked "yes" in response to whether he believed that the condition was caused or aggravated by an employment activity. The Board has held that when a physician's opinion on causal relationship consists only of checking "yes" to a form question, without explanation or rationale, that opinion has little probative value and is insufficient to establish a claim.¹⁵ On the form report Dr. Byrne explained that appellant had "no problem before work injury." However, a medical opinion that indicates that a condition is causally related to an employment injury because the employee was asymptomatic before the injury, but symptomatic after is insufficient, without supporting rationale, to establish causal relationship.¹⁶

In his March 30, 2017 report, Dr. Byrne explained that appellant had been treated since May 2014 when his knee was injured while working as a law enforcement officer for the employing establishment and participating in a training exercise in 2014. The Board finds, however, that Dr. Byrne's statement is conclusory in nature and fails to provide the specific date of injury or rationale as to how appellant injured his knees. The Board has held that a report is 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.¹⁷ The Board finds that Dr. Byrne has not explained the relationship between appellant's torn left knee meniscus and the accepted March 25, 2014 employment incident. A physician's opinion on causal relationship 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).¹⁸

The record contains reports from a physician assistant. Health care providers such as nurses, acupuncturists, physician assistants, and physical therapists are not considered physicians as defined under FECA. Thus, their opinions on causal relationship do not constitute rationalized medical opinions and have no weight or probative value.¹⁹

As appellant has not submitted rationalized medical evidence establishing a left knee condition causally related to the accepted March 25, 2014 employment incident, he has not met his burden of proof.²⁰

¹⁴ See *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

¹⁵ See *M.O.*, Docket No. 18-1056 (issued November 6, 2018); *Deborah L. Beatty*, 54 ECAB 340 (2003).

¹⁶ *T.M.*, Docket No. 08-0975 (issued February 6, 2009).

¹⁷ See *Y.D.*, Docket No. 16-1896 (issued February 10, 2017).

¹⁸ *Victor J. Woodhams*, *supra* note 8.

¹⁹ *Jane A. White*, 34 ECAB 515, 518 (1983). See 5 U.S.C. § 8101(2).

²⁰ See *Linda I. Sprague*, 48 ECAB 386, 389-90 (1997).

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 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 left knee condition causally related to the accepted March 25, 2014 employment incident.

ORDER

IT IS HEREBY ORDERED THAT the August 1, 2017 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: September 16, 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