



## **FACTUAL HISTORY**

On September 15, 2016 appellant, then a 60-year-old nursing assistant, filed a traumatic injury claim (Form CA-1) alleging that she sustained injuries to her right knee and left thigh that day because she “fell on floor” in a patient room while in the performance of duty. She stopped work that same day.

On September 15, 2016 an employing establishment official properly executed an authorization for examination and/or treatment (Form CA-16) authorizing appellant to obtain treatment at a local urgent care clinic.

On September 15, 2016 a physician assistant indicated that appellant was treated at an urgent care facility that day and was unable to work due to injury. She noted that appellant would be able to return to work on September 22, 2016.

In a September 23, 2016 duty status report (Form CA-17), Dr. Jerry Fisher, a family practitioner, diagnosed internal derangement of the right knee due to an injury sustained on September 14, 2016. In an accompanying attending physician’s report (Form CA-20) of even date, he noted that on September 14, 2016 appellant fell and injured her right knee and left thigh. Dr. Fisher diagnosed “internal derangement of knee -- meniscus?” and indicated that appellant needed a magnetic resonance imaging (MRI) scan of the right knee. He checked a box marked “yes” indicating his belief that the injury had been caused or aggravated by an employment activity.

In a September 23, 2016 narrative note, Dr. Fisher indicated that on September 14, 2016 appellant was walking into a patient room at approximately 8:15 a.m. when she walked into an empty wheelchair. The foot extenders on the wheelchair were out and appellant got caught in the wheelchair, the brake on the wheelchair was not on, and she and the wheelchair kept moving causing her legs to become tangled in the wheelchair. Dr. Fisher noted that appellant injured her right knee and left upper thigh. He again diagnosed internal derangement of the right knee.

An incident report from the employing establishment dated September 15, 2016 indicated that appellant fell in a patient care room at 8:15 a.m. that day after she ran into leg extensions on a wheelchair that was not in use and fell to the floor hurting her right knee and left thigh.

A right knee MRI scan report, dated September 30, 2016, noted a peripheral tear of the medial meniscus and right knee medial collateral ligament sprain. The MRI scan report also noted that the interior flap tear traversed the outer posterior horn to a posterior horn-body junction.

On October 6, 2016 appellant accepted a transitional-duty assignment as a nursing assistant with restrictions of no climbing or kneeling.

In a duty status report (Form CA-17) dated October 21, 2016, Dr. Fisher diagnosed torn meniscus and advised that appellant was not capable of returning to work.

In an October 26, 2016 report, Dr. Jerome DaSilva, a Board-certified orthopedic surgeon, diagnosed right knee medial meniscal tear and a likely contusion of the infrapatellar branch of the saphenous nerve causing appellant anterior knee paresthesias. He indicated that she suffered an

injury at work on September 14, 2016 when she got tangled up in a wheelchair and fell to the ground. Dr. DaSilva referred appellant to physical therapy and released her to full duty.<sup>3</sup>

In a January 3, 2017 development letter, OWCP indicated that when appellant's claim was received it appeared to be a minor injury that resulted in minimal or no lost time from work and, based on these criteria and because the employing establishment had not controverted continuation of pay or challenged the case, payment of a limited amount of medical expenses was administratively approved. It explained that it had reopened the claim for consideration because her medical bills exceeded \$1,500.00. OWCP requested additional evidence including a narrative medical report from a physician. It afforded appellant 30 days to submit the requested information.

In response, appellant submitted a November 18, 2016 report from Dr. Fisher who continued to diagnose internal derangement and medial meniscus tear of the right knee.

On March 31, 2017 appellant voluntarily retired from federal employment.

By decision dated July 28, 2017, OWCP accepted that the September 15, 2016 employment incident occurred as alleged, but denied the claim finding that the medical evidence of record failed to establish a causal relationship between appellant's diagnosed right knee conditions and the accepted September 15, 2016 employment incident.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA<sup>4</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 filed within the applicable time limitation period of FECA,<sup>5</sup> that an injury was sustained while in the performance of duty, as alleged, and that any disability or specific condition for which compensation is claimed is causally related to the employment injury.<sup>6</sup> These are the essential elements of each and every compensation claim regardless of whether the claim is predicated on a traumatic injury or an occupational disease.<sup>7</sup>

To determine whether 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, which must be considered in conjunction with one another. The first component to be established is that the employee actually experienced the employment incident

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<sup>3</sup> Appellant submitted reports from physical therapists dated September 15 and 21, November 23, and December 7 and 14, 2016.

<sup>4</sup> *Supra* note 2.

<sup>5</sup> *See R.B.*, Docket No. 18-1327 (issued December 31, 2018); *J.P.*, 59 ECAB 178 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

<sup>6</sup> *Y.K.*, Docket No. 18-0806 (issued December 19, 2018); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

<sup>7</sup> *R.R.*, Docket No. 19-0048 (issued April 25, 2019); *Delores C. Ellyett*, 41 ECAB 992 (1990).

which is alleged to have occurred.<sup>8</sup> The second component is whether 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 supporting such causal relationship.<sup>10</sup> Causal relationship is a medical issue, and the medical evidence required to establish causal relationship is rationalized medical evidence.<sup>11</sup> 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.<sup>12</sup> 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.<sup>13</sup>

### ANALYSIS

The Board finds that appellant has not met her burden of proof to establish right knee conditions causally related to the accepted September 15, 2016 employment incident.

In an October 26, 2016 report, Dr. DaSilva diagnosed right knee medial meniscal tear and indicated that appellant suffered an injury at work on September 14, 2016 where she got tangled up in a wheelchair and fell to the ground.<sup>14</sup> The Board finds that Dr. DaSilva merely reiterates the narrative of injury provided by appellant without explaining how that employment incident could cause the diagnosed right knee conditions. The mere recitation of patient history does not suffice for purposes of establishing causal relationship between a diagnosed condition and the employment incident.<sup>15</sup> Without explaining physiologically how the accepted employment incident caused or contributed to the diagnosed conditions, the physician's report is of limited probative value.<sup>16</sup> The Board therefore finds that the report from Dr. DaSilva is insufficient to establish that appellant sustained an employment-related injury on September 15, 2016.

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<sup>8</sup> *R.E.*, Docket No. 17-0547 (issued November 13, 2018); *Elaine Pendleton*, 40 ECAB 1143 (1989).

<sup>9</sup> *D.C.*, Docket No. 18-1664 (issued April 1, 2019); *John J. Carlone*, 41 ECAB 354 (1989).

<sup>10</sup> *J.L.*, Docket No. 18-0698 (issued November 5, 2018); *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 465 (2005).

<sup>11</sup> *L.D.*, Docket No. 17-1581 (issued January 23, 2018); *Jacqueline M. Nixon-Steward*, 52 ECAB 140 (2000).

<sup>12</sup> *L.D.*, *id.*; *see also Leslie C. Moore*, 52 ECAB 132 (2000); *Gary L. Fowler*, 45 ECAB 365 (1994).

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

<sup>14</sup> The Board observes that Dr. Silva incorrectly noted the date of appellant's employment incident.

<sup>15</sup> *See J.G.*, Docket No. 17-1382 (issued October 18, 2017).

<sup>16</sup> *See A.B.*, Docket No. 16-1163 (issued September 8, 2017).

In his reports Dr. Fisher diagnosed internal derangement and medial meniscus tear of the right knee. He indicated that on September 14, 2016 appellant was walking into a patient room at approximately 8:15 a.m. when she walked into an empty wheelchair and fell.<sup>17</sup> In his Form CA-17 report, Dr. Fisher check the box marked “yes,” indicating his belief that her right knee conditions had been caused or aggravated by an employment activity. The Board has held, however, that when a physician’s opinion on causal relationship consists only of checking “yes” to a question on a form, without explanation or rationale, that opinion has little probative value and is insufficient to establish a claim.<sup>18</sup> In the remainder of his treatment notes, Dr. Fisher reported appellant’s history of injury on September 15, 2016, but he did not provide an opinion as to whether her employment incident had caused or aggravated the 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 probative value on the issue of causal relationship.<sup>19</sup> These reports, therefore, are also insufficient to establish appellant’s claim. Thus, the Board finds that the evidence of record from Dr. Fisher is insufficient to establish that appellant’s diagnosed right knee conditions are causally related to the accepted September 15, 2016 work incident.

The MRI scan report regarding appellant’s right knee, dated September 30, 2016, revealed a peripheral tear of the medial meniscus and right knee medial collateral ligament sprain, but this diagnostic study does not address the etiology of appellant’s right knee condition. The Board has held that diagnostic studies lack probative value as they do not address whether the employment incident caused any of the diagnosed conditions.<sup>20</sup>

Appellant also submitted evidence from physical therapists. The Board finds that these reports do not constitute competent medical evidence because a physical therapist is not a “physician” as defined under FECA.<sup>21</sup> Certain healthcare providers such as physician assistants, nurse practitioners, physical therapists, and social workers are not considered “physician[s]” as defined under FECA.<sup>22</sup> Consequently, their medical findings and/or opinions will not suffice for purposes of establishing entitlement to FECA benefits.<sup>23</sup> Therefore, the physical therapy records are insufficient to establish the claim.

As appellant has not submitted rationalized medical evidence to support her claim that she sustained right knee conditions causally related to the accepted September 15, 2016 employment incident, the Board finds that she has not met her burden of proof to establish her claim.

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<sup>17</sup> The Board observes that Dr. Fisher incorrectly noted the date of appellant’s employment incident.

<sup>18</sup> See *M.O.*, Docket No. 18-1056 (issued November 6, 2018); *Deborah L. Beatty*, 54 ECAB 3234 (2003).

<sup>19</sup> See *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

<sup>20</sup> See *J.P.*, Docket No. 19-0216 (issued December 13, 2019); *A.B.*, Docket No. 17-0301 (issued May 19, 2017).

<sup>21</sup> 5 U.S.C. § 8101(2); *Jennifer L. Sharp*, 48 ECAB 209 (1996) (physical therapists). See also *Gloria J. McPherson*, 51 ECAB 441 (2000); *Charley V.B. Harley*, 2 ECAB 208, 211 (1949) (a medical issue such as causal relationship can only be resolved through the submission of probative medical evidence from a physician).

<sup>22</sup> 5 U.S.C. § 8101(2); 20 C.F.R. § 10.5(t).

<sup>23</sup> *K.W.*, 59 ECAB 271, 279 (2007); *David P. Sawchuk*, 57 ECAB 316, 320 n.11 (2006); Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3a(1) (January 2013).

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 her burden of proof to establish right knee conditions causally related to the accepted September 15, 2016 employment incident.<sup>24</sup>

**ORDER**

**IT IS HEREBY ORDERED THAT** the July 28, 2017 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: January 22, 2020  
Washington, DC

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

Janice B. Askin, Judge  
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge  
Employees' Compensation Appeals Board

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<sup>24</sup> The record contains a Form CA-16 signed by an employing establishment official. When the employing establishment properly executes a Form CA-16 which authorizes medical treatment as a result of an employee's claim for an employment-related injury, the Form CA-16 creates a contractual obligation, which does not involve the employee directly, to pay for the cost of the examination/treatment regardless of the action taken on the claim. *C.W.*, Docket No. 17-1293 (issued February 12, 2018); *Tracy P. Spillane*, 54 ECAB 608 (2003). The period for which treatment is authorized by a Form CA-16 is limited to 60 days from the date of issuance, unless terminated earlier by OWCP. See 20 C.F.R. § 10.300(c).