

FACTUAL HISTORY

On April 23, 2018 appellant, then a 25-year-old part-time flexible clerk, filed a traumatic injury claim (Form CA-1) alleging that on that day she injured her left leg and knee when pulling an all-purpose container (APC), and tripped, twisting her left knee while in the performance of duty. She stopped work on April 24, 2018.

In a development letter dated April 27, 2018, OWCP advised appellant of the deficiencies of her claim and instructed her as to the factual and medical evidence necessary to establish her claim. It requested that she provide a narrative medical report from her physician, which contained a detailed description of findings and diagnoses, explaining how the reported incident caused or aggravated her medical condition. OWCP afforded appellant 30 days to submit the necessary evidence.

In response, appellant submitted an April 24, 2018 medical note from Kristina Eberly, a certified nurse practitioner. Nurse Eberly noted shooting pain in appellant's left knee after an April 23, 2018 work incident in which appellant was pulling an APC, tripped and twisted her left knee. She also noted that appellant had a history of a previous medial meniscus tear in the same knee with an arthroscopic meniscal repair procedure performed approximately a year and a half ago.

In an April 24, 2018 duty status report (Form CA-17), Nurse Eberly diagnosed left knee strain and recommended work restrictions. In an attending physician's report (Form CA-20) of even date, she again noted appellant's history of a meniscal tear and repair and diagnosed left knee strain. Nurse Eberly checked a box marked "yes" to indicate her belief that appellant's condition was caused or aggravated by her employment activity.

In an April 25, 2018 medical note, Lisa Alchholz, a certified nurse practitioner reported that an x-ray of appellant's knee was negative for any fractures. In a Form CA-17 and Form CA-20 of even date, she noted appellant's history of a left knee meniscal repair and diagnosed left knee strain. Nurse Alchholz checked a box marked "yes" to indicate her belief that appellant's condition was caused or aggravated by her employment activity and provided her with updated work restrictions.

In a May 8, 2018 progress note, Dr. John Bondra, a Board-certified orthopedic surgeon, recounted appellant's history of injury in which she slipped and twisted her left knee at work on April 23, 2018. He noted her history of a medial meniscus tear in her left knee and a left knee scope performed in September 2016. Upon evaluation, Dr. Bondra assessed a subluxation of the left patella and chondromalacia patellae in appellant's left knee.

Appellant also submitted a May 8, 2018 medical report and an updated Form CA-17 and Form CA-20 of even date from Dr. Jeffrey Pay, an osteopath Board-certified in emergency medicine. Dr. Pay provided updated the treatment performed for her and the work restrictions related to her left knee strain.

In a May 15, 2018 letter, Dr. Philip Havens, a Board-certified orthopedic surgeon, reported appellant's history of left knee injuries in which she underwent a left knee arthroscopic procedure for a partial medial meniscectomy a year ago and also the April 23, 2018 incident in which she slipped and injured her knee at work. Upon evaluation, he noted an impression of a torn medial

meniscus in her left knee and planned to have her undergo a magnetic resonance imaging (MRI) scan for further evaluation.

Appellant provided a May 18, 2018 medical report and a Form CA-17 and Form CA-20 from Nurse Eberly. Nurse Eberly noted that appellant continued to experience pain, clicking, popping, and instability in her left knee. Appellant also informed Nurse Eberly that she was unable to return to work even with the accommodations. Nurse Eberly advised that appellant continue to move forward with an MRI scan after she is authorized to do so.

In an undated personal statement, appellant explained that she was working in the mail sorting area and that as she started pulling an APC full of mail towards the dock, she tripped and twisted her left leg.

By decision dated June 4, 2018, OWCP denied appellant's traumatic injury claim, finding that the evidence of record did not support that her left knee injuries were causally related to the accepted April 23, 2018 employment incident.

By letter dated June 26, 2018 appellant, through counsel, requested a telephonic hearing before a representative of OWCP's Branch of Hearings and Review.

Appellant provided a June 22, 2018 medical report and a Form CA-17 and a Form CA-20 from Nurse Eberly. She informed Nurse Eberly of OWCP's June 4, 2018 decision and that she would need a physician to provide a narrative explanation of how her injury is causally related to the April 23, 2018 employment incident. Nurse Eberly indicated that many meniscal injuries are often related to the twisting of the cartilage and recommended that appellant continue to move forward with an MRI scan of her left knee and to meet with Dr. Pay.

The telephonic hearing was held on December 6, 2018. OWCP's hearing representative informed appellant that it required medical evidence relating to her previous 2016 left knee injury and a report from a physician explaining how the April 23, 2018 employment incident caused her current injury. She held the case record open for 30 days for the submission of additional evidence.

In progress notes dated July 11 and 26, 2018, Dr. George Stepanic, a Board-certified orthopedic surgeon, noted pain in appellant's left knee related to the April 23, 2018 employment incident. He noted her surgical history of a left knee scope performed in September 2016 recommended that she undergo a left knee arthroscopy in order to treat her injury.

In an August 9, 2018 progress note, Dr. Bondra explained that appellant presented with a complex tear of her medial meniscus. He provided a drain injection to treat her injury.

In progress notes dated from August 28 to October 18, 2018, Matthew Meyers, a physician assistant, provided updates for appellant's rehabilitation following her August 14, 2018 left knee arthroscopy. After nine weeks of therapy, appellant received a J-brace and an injection to better assist with her recovery.

By decision dated December 31, 2018, OWCP's hearing representative reversed in part the June 4, 2018 decision, finding that appellant's claim should be accepted for a left knee strain as causally related to the April 23, 2018. She further affirmed in part for the reason that she did not meet her burden of proof to establish that she sustained a left knee medial meniscus tear or left knee chondromalacia patella causally related to the accepted employment incident.

On January 9, 2019 OWCP accepted appellant's claim for a left knee unspecified site strain/sprain.

OWCP continued to receive evidence. In a March 19, 2019 letter, counsel requested that it expand the acceptance of appellant's claim to include her left knee lateral meniscus tear. Counsel provided a February 28, 2019 letter from Dr. Stepanic, in which he explained that, after reviewing her case, he felt with a degree of medical certainty that the April 23, 2018 employment incident was the cause of her meniscus tear as she was not experiencing left knee pain prior to her injury.

On May 6, 2019 appellant, through counsel, requested reconsideration of OWCP's December 31, 2018 decision.

By decision dated July 31, 2019, OWCP denied modification of its December 31, 2018 decision, finding that Dr. Stepanic's letter was insufficient to establish a causal relationship between appellant's lateral meniscus tear and the accepted April 23, 2018 employment incident. .

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 whether a federal employee has sustained a traumatic injury in the performance of duty it must first be determined whether fact of injury has been established.⁶ First, the employee must submit sufficient evidence to establish that she actually experienced the employment incident at the time, place, and in the manner alleged.⁷ Second, the employee must submit sufficient evidence to establish that the employment incident caused a personal injury.⁸

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 sufficient to establish such causal relationship.⁹ The opinion of the physician

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).

⁶ *D.B.*, Docket No. 18-1348 (issued January 4, 2019); *T.H.*, 59 ECAB 388, 393-94 (2008).

⁷ *D.S.*, Docket No. 17-1422 (issued November 9, 2017); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁸ *B.M.*, Docket No. 17-0796 (issued July 5, 2018); *John J. Carlone*, 41 ECAB 354 (1989).

⁹ *K.V.*, Docket No. 18-0723 (issued November 9, 2018).

must be based on a complete factual and medical background, 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 claimant.¹⁰

In a 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.¹¹

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish a left lateral meniscus tear causally related to the accepted April 23, 2018 employment incident.

In Dr. Stepanic's February 28, 2019 letter, he stated that, to a degree of medical certainty, the April 23, 2018 employment incident was the cause of appellant's meniscus tear as she was not experiencing left knee pain prior to her injury. The Board has held that an opinion 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.¹² Without explaining how, physiologically, the movements involved in the employment incident caused or contributed to the meniscus tear, Dr. Stepanic's opinion is of limited probative value and insufficient to establish causal relationship.¹³

Dr. Stepanic's remaining medical evidence consisted of progress notes dated July 11 and 26, 2018. He noted pain in appellant's left knee related to the employment incident and also her surgical history, including a left knee scope performed in September 2016. While Dr. Stepanic's report generally supports causal relationship, he did not offer any medical rationale sufficient to explain how and why he believes that the April 23, 2018 employment incident could have resulted in or contributed to the diagnosed condition. The Board has consistently held that complete medical rationalization is particularly necessary when there is a preexisting condition involving the same body part¹⁴ and has required medical rationale differentiating between the effects of the work-related injury and the preexisting condition in such cases.¹⁵ Without explaining how tripping and twisting her left knee caused or contributed to appellant's meniscus tear, Dr. Stepanic's remaining medical evidence is of limited probative value.¹⁶

¹⁰ *I.J.*, 59 ECAB 408 (2008).

¹¹ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3e (January 2013); *N.C.*, Docket No. 19-1191 (issued December 19, 2019); *R.D.*, Docket No. 18-1551 (issued March 1, 2019).

¹² *M.B.*, Docket No. 19-0840 (issued October 2, 2019); *John F. Glynn*, 53 ECAB 562 (2002).

¹³ *S.J.*, Docket No. 19-0696 (issued August 23, 2019); *M.C.*, Docket No. 18-0951 (issued January 7, 2019).

¹⁴ *K.R.*, Docket No. 18-1388 (issued January 9, 2019).

¹⁵ See e.g., *A.J.*, Docket No. 18-1116 (issued January 23, 2019); *M.F.*, Docket No. 17-1973 (issued December 31, 2018); *J.B.*, Docket No. 17-1870 (issued April 11, 2018); *E.D.*, Docket No. 16-1854 (issued March 3, 2017); *P.O.*, Docket No. 14-1675 (issued December 3, 2015).

¹⁶ See *A.P.*, Docket No. 19-0224 (issued July 11, 2019).

In progress notes dated May 8 and August 9, 2018, Dr. Bondra noted appellant's 2016 medial meniscus tear and her April 23, 2018 injury in which she slipped and twisted her left knee at work. Upon evaluation, he assessed a subluxation of the left patella and chondromalacia patellae in her left knee, as well as a complex tear of her medial meniscus. As stated previously, without explaining how slipping and twisting her left knee caused or contributed to appellant's meniscus tear, Dr. Bondra's medical evidence is of limited probative value.¹⁷

Similarly, in his May 15, 2018 medical report, Dr. Haven reported appellant's history of a medial meniscectomy and her April 23, 2018 employment incident. Upon evaluation, he noted an impression of a torn medial meniscus in her left knee and planned to have her undergo a MRI scan for further evaluation. However, without explaining how the employment incident caused or contributed to appellant's meniscus tear, Dr. Havens' medical report is of limited probative value.¹⁸

On an updated Form CA-17 and Form CA-20 both dated May 8, 2018 Dr. Pay provided a diagnosis of left knee strain, the treatment performed for appellant, and accompanying work restrictions related to her left knee strain. 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. These reports, therefore, are insufficient to establish appellant's claim.¹⁹

The remaining medical evidence consisted of progress notes from Mr. Meyers, a physician assistant, and Nurses Eberly and Alchholz. The Board has held that health care providers such as physician assistants, nurses, and physical therapists are not physicians under FECA.²⁰ Thus, the remaining medical evidence does not constitute a rationalized medical opinion and has no weight or probative value.²¹

As appellant has not submitted rationalized medical evidence establishing that her left lateral meniscus tear is causally related to the accepted April 23, 2018 employment incident, the Board finds that 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.

¹⁷ *Id.*

¹⁸ *Supra* note 16.

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

²⁰ 5 U.S.C. § 8102(2) of FECA provides that the term physician includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, and osteopathic practitioners within the scope of their practice as defined by State law. *See also K.C.*, Docket No. 19-0834 (issued October 28, 2019); and *E.T.*, Docket No. 17-0265 (issued May 25, 2018) (physician assistants are not considered physicians under FECA).

²¹ *See A.A.*, Docket No. 19-0957 (issued October 22, 2019); *Jane A. White*, 34 ECAB 515, 518 (1983).

CONCLUSION

The Board finds that appellant has not met her burden of proof to establish a left lateral meniscus tear causally related to the accepted April 23, 2018 employment incident.

ORDER

IT IS HEREBY ORDERED THAT the July 31, 2019 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: May 6, 2020
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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