



## ISSUE

The issue is whether appellant has met his burden of proof to establish that his left patellar tendinitis is causally related to the accepted factors of his federal employment.

## FACTUAL HISTORY

On April 9, 2018 appellant, then a 25-year-old mail carrier, filed an occupational disease claim (Form CA-2) alleging that his physicians and physical therapists told him that his patellar tendinitis was caused by his federal employment duties. He indicated that he first became aware of his condition June 1, 2017 and its relationship to factors of his federal employment on January 10, 2018. Appellant had stopped work on January 6, 2018.

In a February 20, 2018 progress note, Dr. Gregory H. Dairyko, a Board-certified orthopedic surgeon, indicated that appellant worked as a mail carrier and reported that he may walk 10 to 11 miles a day. He noted that appellant reported that he sustained an injury to the left knee in June 2017, for which appellant had received a cortisone injection and had performed a home exercise program. Dr. Dairyko noted examination findings and indicated that x-ray films of the left knee revealed evidence of Osgood-Schlatter's disease with preservation in the medial, lateral, and patellofemoral joint space. He provided an assessment of acute left knee pain and left knee pain, unspecified chronicity, and recommended a course of physical therapy. An accompanying February 20, 2018 x-ray of appellant's left knee revealed no acute radiographic findings or significant degenerative changes.

Appellant also submitted a March 5, 2018 medical clearance form and surgical worksheet, in which Dr. Adam Yanke, a Board-certified orthopedic surgeon, cleared appellant for a left knee arthroscopic debridement and possible chondroplasty and patellar tendon injection. The diagnoses for the procedure were listed as left knee patellar cartilage defect with patellar tendinitis and articular cartilage defect.

In a progress note dated April 6, 2018, Dr. Dairyko held appellant off work for four weeks.

In a May 11, 2018 development letter, OWCP advised appellant that additional factual and medical evidence was necessary to establish his claim. It requested that he submit additional medical evidence, including a rationalized report from his physician addressing causal relationship between a diagnosed medical condition and the identified employment factors. OWCP further provided a questionnaire for appellant's completion to substantiate the factual allegations of his claim. It afforded him 30 days to submit the necessary evidence.

On July 3, 2018 appellant completed OWCP's development questionnaire and explained that his left knee pain was due to walking and climbing stairs in all kinds of weather and carrying a mail bag in in the performance of his mail carrier duties. He also submitted a copy of his position description.

OWCP continued to receive medical reports. In a January 11, 2018 report, Dr. Siva Krishman, a Board-certified family practitioner, reported that appellant injured his left knee about five or six years prior playing basketball and, since then, physical activity caused light pain. She

noted that he worked as a letter carrier and had developed a lot of pain and swelling with activity. A primary diagnosis of chronic left knee pain was provided. Dr. Krishman held appellant off work. In a February 13, 2018 light-duty request, she noted his restrictions.

A June 12, 2018 magnetic resonance imaging (MRI) scan of appellant's left knee revealed mild edema of the infrapatellar fat pad, mild quadriceps, and proximal patellar tendinosis without tear. No acute meniscal or ligamentous injury was seen.

In medical reports dated April 6, May 11 and 29, and June 19, 2018, Dr. Dairyko noted appellant's MRI scan findings. He diagnosed acute pain of left knee and patellar tendinitis of left knee. Dr. Dairyko also provided work excuse and medical restrictions notes dated April 6, 17, and 24, May 11 and 29, and June 19, 2018.

By decision dated July 25, 2018, OWCP denied appellant's occupational disease claim, finding that the medical evidence of record was insufficient to establish that his diagnosed left knee condition was causally related to the accepted employment factors.

On August 12, 2018 appellant, through counsel, requested a telephonic hearing before an OWCP hearing representative, which was later converted to a review of the written record at counsel's request. No additional evidence was submitted.

By decision dated February 25, 2019, an OWCP hearing representative affirmed the July 25, 2018 decision.

On March 19, 2019 OWCP received appellant's undated request for reconsideration. In a March 4, 2019 report, Dr. Henry Legaspi, an osteopath Board-certified in physiatry, opined that appellant's left chronic patellar tendinosis could have been a result of his work as a mail carrier given the required repetitive knee flexion and extension.<sup>3</sup>

On June 26, 2019 appellant, through counsel, requested reconsideration. OWCP continued to receive medical evidence.

In support of his request, appellant submitted an April 17, 2019 report by Dr. Legaspi, who indicated that appellant's pain at the inferolateral corner of the left patella began while he was working as a letter carrier. His job required walking approximately 8 to 14 miles per day, sometimes on uneven surfaces. Dr. Legaspi advised that patellar tendinosis is a chronic overuse injury that is usually seen in younger patients who perform sports activities that involve repetitive flexion and extension of the knees and typical symptoms are felt at the inferior pole of the patella. He opined that, given the repetitive nature of appellant's job, and no other reported activities that can cause patellar tendinosis such as sports or running, it was "entirely possible that appellant's patellar tendinosis was caused by his occupation as a mailman."

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<sup>3</sup> Appellant appealed OWCP's February 25, 2019 decision to the Board on April 1, 2019; however, he subsequently withdrew his request. By order dated June 25, 2019, the Board dismissed the appeal at the request of appellant's counsel. *Order Dismissing Appeal*, Docket No. 19-0956 (issued June 25, 2019).

By decision dated September 23, 2019, OWCP denied modification of its February 25, 2019 decision.

### **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 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 upon a traumatic injury or an occupational disease.<sup>7</sup>

In an occupational disease claim, appellant's burden requires submission of the following: (1) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; (2) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; and (3) medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the employee.<sup>8</sup>

Causal relationship is a medical issue, and the medical evidence required to establish causal relationship is rationalized medical opinion evidence.<sup>9</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 claimant.<sup>10</sup>

In any 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,

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

<sup>5</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>6</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>7</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>8</sup> *S.C.*, Docket No. 18-1242 (issued March 13, 2019); *R.H.*, 59 ECAB 382 (2008).

<sup>9</sup> *A.M.*, Docket No. 18-1748 (issued April 24, 2019); *T.H.*, 59 ECAB 388 (2008).

<sup>10</sup> *W.R.*, Docket No. 19-0460 (issued May 18, 2020); *M.V.*, Docket No. 18-0884 (issued December 28, 2018); *I.J.*, 59 ECAB 408 (2008).

the physician must provide a rationalized medical opinion that differentiates between the effects of the work-related injury or disease and the preexisting condition.<sup>11</sup>

### ANALYSIS

The Board finds that appellant has not met his burden of proof to establish that his left patellar tendinitis is causally related to the accepted factors of his federal employment.

In her January 11, 2018 report, Dr. Krishman provided an assessment of chronic pain of the left knee. She reported a history of appellant injuring his left knee approximately five to six years prior playing basketball, that he worked as a mail carrier, and that he developed a lot of pain and swelling with activity. Dr. Krishman's report is of no probative value as she did not provide a firm diagnosis of a particular medical condition.<sup>12</sup> The Board has explained that pain is a symptom and not a compensable medical diagnosis.<sup>13</sup> Dr. Krishman did not provide a specific diagnosis of a medical condition of the left knee.<sup>14</sup> Additionally, while she noted that appellant worked as a letter carrier and had developed a lot of pain and swelling with activity, she did not discuss his job duties or explain whether his work duties caused or contributed to his left knee condition. A medical opinion must explain how the implicated employment factors physiologically caused, contributed to, or aggravated the specific diagnosed conditions.<sup>15</sup> Thus, Dr. Krishman's report is insufficient to establish appellant's claim.

In his February 20, 2018 report, Dr. Dairyko noted that appellant may walk 10 to 11 miles a day as a mail carrier. In that report and in subsequent reports dated from April 6 to June 19, 2018, he diagnosed left knee pain and patellar tendinitis of left knee. While Dr. Dairyko noted that appellant walked several miles a day as a mail carrier, he failed to specifically address whether appellant's work duties caused or aggravated the diagnosed medical condition of patellar tendinitis of left knee. 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>16</sup>

Dr. Yanke's March 5, 2018 medical clearance form and surgical worksheet, which cleared appellant for a left knee arthroscopic debridement and possible chondroplasty and patellar tendon injection, is of no probative value as he did not offer an opinion about the cause of appellant's need

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<sup>11</sup> Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3e (January 2013); *see A.S.*, Docket No. 19-1955 (issued April 9, 2020).

<sup>12</sup> *See A.R.*, Docket No. 19-1560 (issued March 2, 2020).

<sup>13</sup> *T.G.*, Docket No. 19-0904 (issued November 25, 2019).

<sup>14</sup> *See T.H.*, Docket No. 19-1891 (issued April 3, 2020).

<sup>15</sup> *K.G.*, Docket No. 18-1598 (issued January 7, 2020).

<sup>16</sup> *See L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

for surgery. As noted, 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>17</sup>

Medical reports from Dr. Legaspi dated March 4 and April 17, 2019, indicated that appellant's left chronic patellar tendinosis could have been a result of his work as a letter carrier given the required repetitive knee flexion and extension and no other reported activities that could cause patellar tendinosis. However, Dr. Legaspi did not explain how appellant's prior left knee conditions, which the record reflects as Osgood-Schlatter's disease, or a history of a prior left knee injury due to playing basketball five to six years prior, related to appellant's current left knee condition.<sup>18</sup> A well-rationalized opinion is particularly warranted when there is a history of preexisting conditions.<sup>19</sup> While the opinion supporting causal relationship does not have to reduce the cause or etiology of a disease or a condition to an absolute certainty, the opinion must be one of reasonable medical certainty and not speculative or equivocal in character.<sup>20</sup> As Dr. Legaspi's opinion regarding causal relationship was speculative and conclusory, it is insufficient to meet appellant's burden of proof to establish his claim.<sup>21</sup>

Appellant also submitted the results of diagnostic testing. The Board has held, however, that diagnostic studies, standing alone, lack probative value as they do not address whether the employment incident caused any of the diagnosed conditions.<sup>22</sup>

As the record lacks rationalized medical evidence establishing causal relationship between appellant's patellar tendinitis of left knee and the accepted employment factors, the Board finds that he has not met his burden of proof.

On appeal counsel asserts that OWCP failed to apply the proper standard of causation and failed to give due deference to the findings of the attending physician. As explained above, however, the medical evidence of record is insufficient to establish causal relationship between appellant's patellar tendinitis of left knee and the accepted employment factors. Consequently, appellant has not met his burden of proof.

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>17</sup> *Id.*

<sup>18</sup> *P.S.*, Docket No. 17-1013 (issued November 1, 2017).

<sup>19</sup> *D.M.*, Docket No. 16-0346 (issued June 15, 2017).

<sup>20</sup> *C.H.*, Docket No 19-0409 (issued August 5, 2019).

<sup>21</sup> *P.A.*, Docket No. 18-0559 (issued January 29, 2020).

<sup>22</sup> *K.S.*, Docket No. 19-1623 (issued March 19, 2020); *J.M.*, Docket No. 18-0853 (issued March 9, 2020).

**CONCLUSION**

The Board finds that appellant has not met his burden of proof to establish that his left patellar tendinitis is causally related to the accepted factors of his federal employment.

**ORDER**

**IT IS HEREBY ORDERED THAT** the September 23, 2019 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: October 16, 2020  
Washington, DC

Janice B. Askin, Judge  
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Alternate Judge  
Employees' Compensation Appeals Board

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