

thigh/upper leg injury when ascending stairs while in the performance of duty. On the reverse side of the claim form the employing establishment checked a box marked “Yes” to indicate that appellant was injured in the performance of duty. Appellant stopped work on September 3, 2019.

In an accompanying narrative statement, appellant explained that he felt a twinge in his right leg while ascending stairs to assist a customer. He noted that he continued working, but approximately one hour later his knee was swollen and difficult to walk on. Appellant reported that he continued to work, but his pain intensified. He indicated that he stopped work and sought medical treatment. Appellant noted that, in the following days, he consulted with his primary physician and an orthopedic specialist.

In a development letter dated October 9, 2019, OWCP informed appellant that the evidence of record was insufficient to establish his claim. It advised him of the type of factual and medical evidence needed and provided a questionnaire for his completion. OWCP afforded appellant 30 days to submit the necessary evidence.

An unsigned after visit summary, dated August 28, 2019, indicated that appellant saw a nurse practitioner for acute pain of the right knee.

An after visit summary, dated September 4, 2019, indicated that appellant saw Dr. Barnard San Gabriel, a Board-certified in internal medicine, for right anterior knee pain, swelling of the right knee joint, and right knee instability.

A September 9, 2019 magnetic resonance imaging (MRI) scan of appellant’s right, lower extremity revealed a partial tear of the distal quadriceps tendon with surrounding swelling, joint effusion, and lateral discoid meniscus.

By decision dated November 12, 2019, OWCP denied appellant’s traumatic injury claim, finding that the medical evidence of record was insufficient to establish a causal relationship between appellant’s diagnosed medical conditions and the accepted August 26, 2019 employment incident.

LEGAL PRECEDENT

An employee seeking benefits under FECA² 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

² *Id.*

³ *S.S.*, Docket No. 19-1815 (issued June 26, 2020); *S.B.*, Docket No. 17-1779 (issued February 7, 2018); *Joe D. Cameron*, 41 ECAB 153 (1989).

⁴ *M.H.*, Docket No. 19-0930 (issued June 17, 2020); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

compensation claim, regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁵

To determine if an employee has 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.⁶ The second component is whether the employment incident caused a personal injury.⁷

Causal relationship is a medical question that requires rationalized medical opinion evidence to resolve the issue.⁸ 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 incident identified by the claimant.⁹

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish a right knee injury causally related to the accepted August 26, 2019 employment incident.

An after visit summary, dated September 4, 2019, indicated that appellant saw Dr. San Gabriel for right anterior knee pain, swelling of the right knee joint, and right knee instability, but did not provide an opinion of the issue of causal relationship. The Board has held that medical evidence that does not offer an opinion regarding the cause of a diagnosed condition is of no probative value on the issue of causal relationship.¹⁰ This report, therefore, is insufficient to establish appellant's claim.

The record contains a right lower extremity MRI scan which diagnosed a partial tear of the distal quadriceps tendon with surrounding swelling, joint effusion, and lateral discoid meniscus. While this diagnostic test identified right knee diagnoses, it offered no opinion regarding causal relationship. The Board has explained that diagnostic test reports, standing alone, lack probative value regarding causal relationship as they do not provide an opinion as to whether there is a causal relationship between an employment incident and a diagnosed condition.¹¹ This diagnostic report

⁵ S.A., Docket No. 19-1221 (issued June 9, 2020); L.M., Docket No. 13-1402 (issued February 7, 2014); Delores C. Ellyett, 41 ECAB 992 (1990).

⁶ R.K., Docket No. 19-0904 (issued April 10, 2020); Elaine Pendleton, 40 ECAB 1143 (1989).

⁷ Y.D., Docket No. 19-1200 (issued April 6, 2020); John J. Carlone, 41 ECAB 354 (1989).

⁸ L.F., Docket No. 19-1905 (issued April 10, 2020); Jacqueline M. Nixon-Steward, 52 ECAB 140 (2000).

⁹ A.S., Docket No. 19-1955 (issued April 9, 2020); Leslie C. Moore, 52 ECAB 132 (2000).

¹⁰ See L.B., Docket No. 18-0533 (issued August 27, 2018); D.K., Docket No. 17-1549 (issued July 6, 2018).

¹¹ J.P., Docket No. 20-0381 (issued July 28, 2020).

is therefore insufficient to establish that appellant's diagnosed right knee conditions were causally related to the accepted employment incident.

OWCP also received an August 2019 after visit summary from a nurse practitioner. The Board has held that medical reports from a nurse practitioner are of no probative value as such health care providers are not considered "physician[s]" as defined under FECA and are, therefore, not competent to provide medical opinions.¹² Consequently, this evidence is also insufficient to establish appellant's claim.

As appellant has not submitted rationalized medical evidence establishing a causal relationship between his right knee conditions and the accepted August 26, 2019 employment incident, the Board finds that he has not met his burden of proof to establish his 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 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 right knee injury causally related to the accepted August 26, 2019 employment incident.

¹² 5 U.S.C. § 8102(2) of FECA provides as follows: (physician includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, and osteopathic practitioners within the scope of their practice as defined by State law. *David P. Sawchuk*, 57 ECAB 316, 320 n.11 (2006) (lay individuals such as physician assistants, nurses, and physical therapists are not competent to render a medical opinion under FECA). 5 U.S.C. § 8101(2); 20 C.F.R. § 10.5(t); *see also W.Z.*, Docket No. 20-0191 (issued July 31, 2020) a nurse practitioner is not a physician under FECA.

ORDER

IT IS HEREBY ORDERED THAT the November 12, 2019 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: September 23, 2020
Washington, DC

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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