United States Department of Labor
Employees' Compensation Appeals Board

C.K., Appellant	)	
and	)	**Docket No. 20-0424**
	)	**Issued: August 30, 2021**
U.S. POSTAL SERVICE, POST OFFICE, Dodgeville, WI, Employer	)	

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Chief Judge
JANICE B. ASKIN, Judge
PATRICIA H. FITZGERALD, Alternate Judge

JURISDICTION

On December 16, 2019 appellant filed a timely appeal from a December 4, 2019 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act[1] (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.[2]

ISSUE

The issue is whether appellant has established a diagnosed medical condition causally related to the accepted October 23, 2019 employment incident.

[1] 5 U.S.C. § 8101 *et seq.*

[2] The Board notes that, following the December 4, 2019 decision, appellant submitted additional evidence. However, the Board's *Rules of Procedure* provides: "The Board's review of a case is limited to the evidence in the case record that was before OWCP at the time of its final decision. Evidence not before OWCP will not be considered by the Board for the first time on appeal." 20 C.F.R. § 501.2(c)(1). Thus, the Board is precluded from reviewing this additional evidence for the first time on appeal. *Id.*

FACTUAL HISTORY

On October 23, 2019 appellant, then a 59-year-old city carrier, filed a traumatic injury claim (Form CA-1) alleging that on that same day she injured her knees when a dog got loose and knocked her to the ground while in the performance of duty. She indicated that she twisted and fractured her left knee and also scratched and bruised her right knee. Appellant stopped work on October 23, 2019.

In an October 28, 2019 development letter, OWCP informed appellant that it had received no evidence in support of her traumatic injury claim. It informed her of the evidence necessary to establish her claim and provided a questionnaire for her completion regarding her employment activities. OWCP also requested a narrative medical report from appellant's treating physician, which contained a detailed description of findings and a diagnosis, explaining how the claimed employment incident caused, contributed to, or aggravated her medical conditions. It afforded her 30 days to respond.

On October 23, 2019 the employing establishment executed an authorization for examination and/or treatment (Form CA-16). J.B., the authorizing official, described appellant's injury as a sprain/twist of the left knee. The portion of the form designated as Part B-Attending Physician's Report was signed on November 4, 2019 by Dr. James Self, a Board-certified orthopedic surgeon, who diagnosed a closed fracture of the lateral portion of the left tibial plateau.

In October 23, 2019 diagnostic reports, Dr. Alessando Rossi, a Board-certified radiologist, performed a CT scan and x-ray scan of appellant's left knee, observing an acute, mildly comminuted, depressed lateral tibial plateau fracture.

In work status reports dated November 11 and 25, 2019, Dr. Self initially recommended appellant not return to work and subsequently found she could return to work with restrictions.

By decision dated December 4, 2019, OWCP denied appellant's traumatic injury claim, finding that she had failed to submit medical evidence signed by a qualifying physician containing a diagnosis in connection with her claimed injury. It concluded, therefore, that the requirements had not been met to establish an injury as defined under FECA.

LEGAL PRECEDENT

An employee seeking benefits under FECA[3] 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 of FECA,[4] 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

[3] *Supra* note 1.

[4] *J.P.*, Docket No. 19-0129 (issued April 26, 2019); *S.B.*, Docket No. 17-1779 (issued February 7, 2018); *Joe D. Cameron*, 41 ECAB 153 (1989).

the employment injury.[5] 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.[6]

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it first must be determined whether the fact of injury has been established. There are two components involved in establishing the fact of injury. First, the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time, place, and in the manner alleged. Second, the employee must submit evidence, in the form of medical evidence, to establish that 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] A physician's opinion on whether there is causal relationship between the diagnosed condition and the accepted employment incident must be based on a complete factual and medical background.[9] Additionally, the physician's opinion 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 the specific employment incident.[10]

ANALYSIS

The Board finds that appellant has established a diagnosed medical condition. The Board further finds that this case is not in posture for decision with regard to whether the diagnosed condition is causally related to the October 23, 2019 employment incident.

On October 23, 2019 the employing establishment's authorizing official executed a Form CA-16 and described appellant's injury as a sprain/twist of the left knee. On November 4, 2019 Dr. Self completed Part B of the CA-16 (Attending Physician's Report). He diagnosed a closed fracture of the lateral portion of the left tibial plateau.

As the medical evidence of record establishes a diagnosed condition, the case must be remanded for consideration of the medical evidence with regard to the issue of causal relationship. Following any further development deemed necessary, OWCP shall issue a *de novo* decision.

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

[6] *R.R.*, Docket No. 19-0048 (issued April 25, 2019); *L.M.*, Docket No. 13-1402 (issued February 7, 2014); *Delores C. Ellyett*, 41 ECAB 992 (1990).

[7] *K.L.*, Docket No. 18-1029 (issued January 9, 2019); *see* 5 U.S.C. § 8101(5) (injury defined); 20 C.F.R. §§ 10.5(ee), 10.5(q)

[8] *T.H.*, 59 ECAB 388, 393-94 (2008); *Robert G. Morris*, 48 ECAB 238 (1996).

[9] *M.V.*, Docket No. 18-0884 (issued December 28, 2018).

[10] *Id.*; *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

CONCLUSION

The Board finds that appellant has established a diagnosed medical condition. The Board further finds that this case is not in posture for decision with regard to whether the diagnosed condition is causally related to the October 23, 2019 employment incident.[11]

ORDER

IT IS HEREBY ORDERED THAT the December 4, 2019 decision of the Office of Workers' Compensation Programs is reversed in part and set aside in part and the case is remanded for further proceedings consistent with this decision of the Board.

Issued: August 30, 2021
Washington, DC

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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

[11] A completed Form CA-16 authorization may constitute a contract for payment of medical expenses to a medical facility or physician, when properly executed. The form creates a contractual obligation, which does not involve the employee directly, to pay for the cost of the examination or treatment regardless of the action taken on the claim. *See* 20 C.F.R. § 10.300(c); *J.G.*, Docket No. 17- 1062 (issued February 13, 2018); *Tracy P. Spillane*, 54 ECAB 608 (2003).