

ISSUE

The issue is whether appellant has met her burden of proof to establish a bilateral knee condition causally related to the accepted factors of her federal employment.

FACTUAL HISTORY

On November 8, 2018 appellant, then a 61-year-old letter carrier, filed an occupational disease claim (Form CA-2) alleging that she aggravated her bilateral knee osteoarthritis due to factors of her federal employment which she had performed since February 2000. Her alleged employment factors included walking long distances on hard surfaces, standing for long periods of time, climbing stairs, bending, twisting, lifting 35 pounds regularly, and lifting 70 pounds occasionally. Appellant noted that she first became aware of her condition on September 11, 2018 and first realized that it was caused or aggravated by her federal employment on October 30, 2018. On the reverse side of the claim form, appellant's supervisor indicated that appellant was last exposed to the employment factors alleged to have caused her condition on November 8, 2018 and that she had not provided any medical documentation in support of her claim.

In a development letter dated November 16, 2018, OWCP informed appellant of the deficiencies of her claim. It advised her of the type of factual and medical evidence necessary to establish her claim and attached a questionnaire for her completion. OWCP afforded appellant 30 days to submit the necessary evidence.

In a separate development letter to the employing establishment dated November 16, 2018, OWCP requested a supervisory statement and additional information regarding the accuracy of appellant's alleged federal employment factors. It afforded the employing establishment 30 days to respond.

September 18, 2018 progress notes by Dr. David Gealt, an osteopath Board-certified in sports medicine, related that appellant complained of bilateral knee pain, worse on the left side. He noted that she had complained of bilateral knee pain for years, for which she had been treated with injections, but that the pain had worsened and was becoming constant in nature. Dr. Gealt indicated that no injury was reported, but that appellant worked as a mail carrier and had a hard time navigating steps. He also noted that she had related that aggravating factors included walking, standing, ascending and descending stairs, and alleviating factors included rest. Dr. Gealt conducted a physical examination of appellant's knees which revealed bilateral knee pain along the lateral and anterior aspects, a valgus deformity, crepitus along the patellofemoral compartment, and a range of motion short of full extension. X-rays of appellant's knees revealed severe bilateral knee osteoarthritis, with joint space narrowing in all 3 compartments, especially along the lateral and patellofemoral compartment, with the left knee worse than the right, and a possible old nonunited lateral patella fracture on the left with patella alta. Dr. Gealt diagnosed primary bilateral knee osteoarthritis.

October 30, 2018 progress notes from Dr. Gealt related that appellant presented with bilateral knee pain, which was worse on her left, and limited mobility. He conducted a physical examination of her knees which revealed bilateral knee pain along the lateral and anterior aspects, a valgus deformity, crepitus along the patellofemoral compartment, and a range of motion short of full extension. Dr. Gealt continued to diagnose primary bilateral knee osteoarthritis.

In an undated statement, appellant explained that, in February 2000, she began working at the employing establishment part time for 10 to 12 hours per day, Monday through Saturday, and 3 hours per day on Sunday. She related that her job included walking through snow and ice with a high volume of mail that was very hard to carry. Appellant stated that as a part-time employee she was assigned the hardest routes, which “almost always entailed walking up and down steps while carrying a bag full of circulars and mail.” After five years she became a full-time employee and for two years she was assigned to a route with many steps and a high volume of mail. The next two years appellant was assigned to three walking routes, and after that she was assigned to a walking route with 536 apartments and 2 cluster boxes for 7 years where she had to carry mail for 40 apartments at a time, and for the past two and a half years her route included 2 hours of walking with steps and 20 car stops where she had to get out of her vehicle to deliver the mail.

On December 7, 2018 appellant responded to OWCP’s development questionnaire and provided a signed statement. She indicated that carrying heavy mail on uneven surfaces, steep lawns, and through inclement weather all day long placed a lot of pressure and stress on her knees. Appellant related that her duties also included casing mail, which entailed pulling it down and placing it in trays. She then loaded the trays and packages onto a knocker and pushed the knocker onto the loading dock, which also stressed her knees. Appellant then bent down and loaded the trays and packages into the truck and would get in and out of the truck when replenishing and delivering mail, which included two steps down and up each time. She related that the volumes increased due to the addition of Amazon packages and during the holiday season. Appellant stated that she experienced increased pain in her knees when performing these duties and still performs them on a daily basis in excruciating pain. She indicated that she did not have any hobbies or play any sports.

By decision dated January 17, 2019, OWCP denied appellant’s occupational disease claim, finding that the evidence of record was insufficient to establish causal relationship between her diagnosed bilateral knee condition and the accepted factors of federal employment.

On January 24, 2019 appellant, through counsel, requested a hearing before an OWCP hearing representative.

January 16, 2019 progress notes by Dr. Gealt indicated that appellant continued to complain of bilateral knee pain. He conducted a physical examination of her knees and continued to diagnose primary bilateral knee osteoarthritis. Dr. Gealt opined that appellant’s physical job as a mail carrier had impacted the deterioration of her knees and worsened her situation, and he noted that it was difficult to conclude that her job duties were the sole cause of her bilateral knee osteoarthritis.

A January 28, 2019 narrative medical report by Dr. Gealt indicated that appellant had ongoing bilateral knee pain for years which had progressively worsened. He repeated her bilateral knee physical examination findings and bilateral knee x-ray findings from his previous reports. Dr. Gealt related that appellant’s job duties included walking, twisting, reaching, bending at her knees, carrying parcels up to 45 pounds, pushing and pulling equipment, and sorting mail for many hours at a time. He opined that her physical job as a mail carrier, which she had performed for the past 18 years, impacted the deterioration of her knees and worsened her situation, and he also stated that it was difficult to conclude that her job duties were the sole cause of her bilateral knee osteoarthritis. Dr. Gealt opined that, to a reasonable degree of medical certainty, working at the

employing establishment on concrete floors further aggravated appellant's knee symptoms. He stated that repetitive activities of lifting, pushing, and pulling will further aggravate her knees with compression forces across the knee joints. Dr. Gealt concluded that appellant's job directly impacts the deterioration of her knees and degenerative arthritis, which thereby increased her symptomology.

On May 15, 2019 an OWCP hearing representative conducted an oral hearing.

In a May 29, 2019 narrative statement, appellant indicated that 15 years prior she began to experience some discomfort in her knees. The pain increased within the next few years to the point where she could not fully bend them. Appellant related that she was treated with injections by her family physician and that progressively her pain became excruciating. She then detailed her medical treatment from Drs. Gealt and Shilling.

OWCP subsequently received additional medical evidence.

A December 19, 2018 medical report by Dr. Jack Shilling, a Board-certified orthopedic surgeon, indicated that appellant presented with advanced degenerative changes in both knees, with her left knee being more symptomatic. He related that her medical history included osteoarthritis, and a physical examination of her knees revealed patellofemoral crepitus and lateral joint tenderness bilaterally, worse on the left than the right. X-rays of appellant's knees displayed bilateral advanced valgus arthritis, with near complete loss of the lateral joint space bilaterally. Osteophytes, subchondral cysts, sclerosis, patella alta, and arthritic changes in the patellofemoral joint were also noted. Dr. Shilling diagnosed advanced bilateral knee arthritis with significant valgus changes. He related that appellant had worked as a postal worker for the past 18 years and indicated that he was concerned that her physical job as a letter carrier had impacted the deterioration of her knees.

Appellant followed up with Dr. Shilling on February 6, 2019. Dr. Shilling conducted a physical examination, reviewed bilateral knee x-rays, and continued to diagnose advanced bilateral knee arthritis with significant valgus changes. May 17, 2019 progress notes by Dr. Gealt indicated that appellant continued to complain of bilateral knee pain, the left worse than the right, and stated that her knee gives out and that she has difficulty walking. He conducted a physical examination and related that he reviewed x-rays of her knees from February 2, 2010 which displayed mild degenerative changes along the medial and patellofemoral compartment. Dr. Gealt continued to diagnose bilateral primary knee osteoarthritis and stated that appellant's more recent x-rays displayed progression in comparison to her February 2, 2010 x-rays, which was not uncommon since osteoarthritis was a progressive order.

By decision dated July 29, 2019, OWCP's hearing representative affirmed OWCP's January 17, 2019 decision.

On July 18, 2019 Dr. Gealt amended his January 28, 2019 report to reflect that appellant's 2009 bilateral knee x-rays displayed mild degenerative changes, and that the more recent x-rays showed significant progression. He also added that her job duties included significant walking on her route and getting in and out of her mail truck multiple times. Dr. Gealt repeated that it was difficult to conclude that appellant's job duties were the sole cause of her bilateral knee osteoarthritis. He opined that, to a reasonable degree of medical certainty, working at the

employing establishment on concrete floors and walking on her mail route for years can further aggravate her knee symptoms. Dr. Gealt stated repetitive activities of kneeling, lifting, pushing, and pulling will further aggravate appellant's knees with compression forces across the knee joints. He concluded again that her job directly impacted the deterioration of her knees and degenerative arthritis, which thereby increased her symptomology.

On August 26, 2019 appellant, through counsel, requested reconsideration.

By decision dated September 4, 2019, OWCP denied modification of its July 29, 2019 decision.

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,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 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 establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit: (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 identified employment factors.⁷

Causal relationship is a medical issue, and the medical evidence required to establish causal relationship is rationalized medical opinion evidence.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

⁴ *R.M.*, Docket No. 20-0342 (issued July 30, 2020); *S.B.*, Docket No. 17-1779 (issued February 7, 2018); *J.P.*, 59 ECAB 178 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

⁵ *V.P.*, Docket No. 20-0415 (issued July 30, 2020); *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 *S.A.*, Docket No. 20-0458 (issued July 23, 2020); *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).

⁷ *See B.H.*, Docket No. 18-1693 (issued July 20, 2020); *S.C.*, Docket No. 18-1242 (issued March 13, 2019); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

⁸ *L.S.*, Docket No. 19-1769 (issued July 10, 2020); *A.M.*, Docket No. 18-1748 (issued April 24, 2019); *T.H.*, 59 ECAB 388 (2008).

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.⁹

In a case in which 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.¹⁰

ANALYSIS

The Board finds that this case is not in posture for decision.

Dr. Gealt's medical reports provided a history of injury, physical examination findings, a review of diagnostic tests, and accurately described the accepted employment factors, which he noted that appellant had performed for 18 years. He diagnosed bilateral knee osteoarthritis and opined that while it was difficult to conclude that her job duties were the sole cause of her bilateral knee osteoarthritis, her job duties directly impacted the deterioration of her degenerative knee arthritis, which thereby increases her symptomology. In his January 28, 2019 narrative medical report, Dr. Gealt opined that to a reasonable degree of medical certainty, work at the employing establishment on concrete floors further aggravated appellant's knee symptoms. In his July 18, 2019 narrative medical report, he also explained that her repetitive activities of kneeling, lifting, pushing, and pulling will further aggravate her knees with compression forces across the knee joints.

It is well established that, proceedings under FECA are not adversarial in nature and, while appellant has the burden of proof to establish entitlement to compensation, OWCP shares responsibility in the development of the evidence.¹¹ While Dr. Gealt's reports do not contain sufficient rationale to discharge appellant's burden of proof by the weight of the reliable, substantial, and probative evidence that her right knee condition was caused or aggravated by the accepted employment factors, these reports raise an inference of causal relationship sufficient to require further development of the case record by OWCP.¹²

The Board, therefore, finds that the case must be remanded for further development of the medical evidence. OWCP shall prepare a statement of accepted facts and refer appellant, together with the case record, to a specialist in the appropriate field of medicine for a reasoned opinion as to whether her accepted employment factors either caused or aggravated her bilateral knee

⁹ *B.C.*, Docket No. 20-0221 (issued July 10, 2020); *M.V.*, Docket No. 18-0884 (issued December 28, 2018); *I.J.*, 59 ECAB 408 (2008).

¹⁰ *R.C.*, Docket No. 19-0376 (issued July 15, 2019); Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3e (January 2013)

¹¹ *J.H.*, Docket No. 18-1637 (issued January 29, 2020). *See also A.P.*, Docket No. 17-0813 (issued January 3, 2018); *Jimmy A. Hammons*, 51 ECAB 219, 223 (1999).

¹² *See T.K.*, Docket No. 20-0150 (issued July 9, 2020); *John J. Carlone*, 41 ECAB 354 (1989); *Horace Langhorne*, 29 ECAB 820 (1978).

condition.¹³ If the physician opines that the diagnosed condition is not causally related to the accepted employment factors, he or she must explain with rationale how or why their opinion differs from that of Dr. Gealt. Following this and other such further development as deemed necessary, OWCP shall issue a *de novo* decision.

CONCLUSION

The Board finds that this case is not in posture for decision.

ORDER

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

Issued: January 11, 2021
Washington, DC

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

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

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

¹³ *Supra* note 10 at Chapter 2.805.3e (January 2013). *See R.D.*, Docket No. 18-1551 (issued March 1, 2019).