



the reverse side of the claim form, J.D., an employing establishment supervisor, checked a box marked "Yes" indicating that appellant's injury was caused by his own willful misconduct as he had been injured due to his inattention to the brake handle. He further noted that appellant had not notified him of the injury at any point prior to February 7, 2020. Appellant stopped work on the date of injury and returned to work on January 20, 2020.

In a February 11, 2020 development letter, OWCP informed appellant that it had received no evidence in support of his traumatic injury claim. It advised him of the type of factual and medical evidence required and provided a questionnaire for his completion. OWCP afforded him 30 days to submit the necessary evidence. In the same letter, it also informed the employing establishment that, if appellant was treated at an employing establishment medical facility for the alleged injury, it must provide treatment notes.

OWCP subsequently received a January 21, 2020 note from Dr. Alan Pollard, a Board-certified orthopedic surgeon, who noted that appellant had been off work since December 26, 2019 due to symptoms from a previous femur fracture. Dr. Pollard released appellant to work without restrictions as of January 20, 2020.

By decision dated March 13, 2020, OWCP accepted that the December 21, 2019 employment incident occurred, as alleged. However, it denied appellant's traumatic injury claim, finding that he had not submitted evidence containing a medical diagnosis in connection with the accepted incident. OWCP concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

On March 30, 2020 appellant requested reconsideration of OWCP's March 13, 2020 decision.

OWCP received additional evidence. In a December 26, 2019 report, Dr. Pollard noted that appellant was seen in follow up for a femur fracture. Appellant provided an interim history of feeling something pop in the anterior aspect of the left thigh while exiting his work vehicle on December 21, 2019. He indicated that he experienced pain and swelling and, although the swelling subsided by December 24, 2019, the pain was ongoing. Dr. Pollard performed a physical examination and noted mild tenderness to palpation over the anterior aspect of the left thigh over the prior femur fracture site. He reviewed radiographs of the left femur, which revealed a healed left femur fracture and no new injury. Dr. Pollard's impression was a stable left femur fracture status post intermedullary nailing on November 30, 2018 with a recent episode of pain and swelling in the left thigh. He opined that this might have been secondary to muscle strain over the prominent bone at the femur fracture site, or perhaps could be secondary to release of scar tissue around the femur fracture site. Dr. Pollard recommended appellant remain out of work for one additional week.

By decision dated June 18, 2020, OWCP denied modification of its March 13, 2020 decision, finding that appellant had not submitted medical evidence sufficient to establish a diagnosed medical condition causally related to his accepted employment incident.

## LEGAL PRECEDENT

An employee seeking benefits under FECA<sup>2</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 timely filed within the applicable time limitation of FECA,<sup>3</sup> 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.<sup>4</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>5</sup>

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it first must be determined whether fact of injury has been established. There are two components involved in establishing 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 component is whether the employment incident caused a personal injury and can be established only by medical evidence.<sup>6</sup>

The medical evidence required to establish causal relationship between a claimed specific condition and an employment incident is rationalized medical opinion evidence.<sup>7</sup> The opinion of the physician must be based on a complete factual and medical background of the employee, 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 specific employment factors identified by the employee.<sup>8</sup>

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,

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<sup>2</sup> *Id.*

<sup>3</sup> *F.H.*, Docket No. 18-0869 (issued January 29, 2020); *J.P.*, Docket No. 19-0129 (issued April 26, 2019); *Joe D. Cameron*, 41 ECAB 153 (1989).

<sup>4</sup> *L.C.*, Docket No. 19-1301 (issued January 29, 2020); *J.H.*, Docket No. 18-1637 (issued January 29, 2020); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

<sup>5</sup> *P.A.*, Docket No. 18-0559 (issued January 29, 2020); *K.M.*, Docket No. 15-1660 (issued September 16, 2016); *Delores C. Ellyett*, 41 ECAB 992 (1990).

<sup>6</sup> *T.H.*, Docket No. 19-0599 (issued January 28, 2020); *K.L.*, Docket No. 18-1029 (issued January 9, 2019); *John J. Carlone*, 41 ECAB 354 (1989).

<sup>7</sup> *S.S.*, Docket No. 19-0688 (issued January 24, 2020); *A.M.*, Docket No. 18-1748 (issued April 24, 2019); *Robert G. Morris*, 48 ECAB 238 (1996).

<sup>8</sup> *T.L.*, Docket No. 18-0778 (issued January 22, 2020); *Y.S.*, Docket No. 18-0366 (issued January 22, 2020); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

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>9</sup>

### ANALYSIS

The Board finds that appellant has not met his burden of proof to establish a diagnosed medical condition causally related to the accepted December 21, 2019 employment incident.

In support of his claim, appellant submitted a report of Dr. Pollard dated December 26, 2019, which primarily addressed follow-up care for a left femur fracture, which had occurred prior to the employment incident, and for which he had undergone intermedullary nailing on November 30, 2018. Dr. Pollard noted a recent episode of pain and swelling after appellant felt a pop in the anterior left thigh while exiting his work vehicle on December 21, 2019. This Board has held that pain is a description of a symptom, not a diagnosis of a medical condition.<sup>10</sup> Dr. Pollard further opined that the pain and swelling “might have” been secondary to muscle strain over the prominent bone at the femur fracture site, or “perhaps could be” secondary to release of scar tissue around the femur fracture site. The Board has held that a medical report lacking a firm diagnosis and a rationalized medical opinion that the medical condition is causally related to the employment incident is of no probative value.<sup>11</sup> Therefore, Dr. Pollard’s report is insufficient to establish appellant’s claim.

Similarly, in his subsequent note dated January 21, 2020, Dr. Pollard indicated that appellant had been off work due to symptoms from a previous femur fracture. As the Board has held, a medical report which does not provide a firm diagnosis and render an opinion on causal relationship is of no probative value and, thus, is insufficient to establish the claim.<sup>12</sup> Additionally, the Board has held that a well-rationalized opinion is particularly warranted when there is a history of a preexisting condition, as in this case.<sup>13</sup> Thus, Dr. Pollard’s January 21, 2020 report is also insufficient to meet appellant’s burden of proof.

As appellant has not submitted rationalized medical evidence establishing causal relationship between a diagnosed medical condition and the accepted December 21, 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(a) and 20 C.F.R. §§ 10.605 through 10.607.15.

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<sup>9</sup> Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3e (January 2013); *J.L.*, Docket No. 20-0717 (issued October 15, 2020).

<sup>10</sup> *See K.S.*, Docket No. 19-1433 (issued April 26, 2021); *S.L.*, Docket No. 19-1536 (issued June 26, 2020); *D.Y.*, Docket No. 20-0112 (issued June 25, 2020).

<sup>11</sup> *J.P.*, Docket No. 20-0381 (issued July 28, 2020); *R.L.*, Docket No. 20-0284 (issued June 30, 2020).

<sup>12</sup> *T.D.*, Docket No. 19-1779 (issued March 9, 2021).

<sup>13</sup> *Supra* note 9.

**CONCLUSION**

The Board finds that appellant has not met his burden of proof to establish a diagnosed medical condition causally related to the accepted December 21, 2019 employment incident.

**ORDER**

**IT IS HEREBY ORDERED THAT** the June 18, 2020 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: May 25, 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