

**United States Department of Labor  
Employees' Compensation Appeals Board**

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C.M., Appellant )

and )

**DEPARTMENT OF THE NAVY, PUGET )  
SOUND NAVAL SHIPYARD & )  
INTERMEDIATE MAINTENANCE FACILITY, )  
Bremerton, WA, Employer )**

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**Docket No. 21-0435  
Issued: October 22, 2021**

*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

VALERIE D. EVANS-HARRELL, Alternate Judge

**JURISDICTION**

On January 31, 2021 appellant filed a timely appeal from a January 19, 2021 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act<sup>1</sup> (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

**ISSUE**

The issue is whether appellant has met her burden of proof to establish a left knee condition causally related to the accepted August 22, 2019 employment incident.

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<sup>1</sup> 5 U.S.C. § 8101 *et seq.*

## **FACTUAL HISTORY**

On August 26, 2019 appellant, then a 54-year-old painter, filed a traumatic injury claim (Form CA-1) alleging that on August 22, 2019 her left knee collapsed when she was walking to catch a bus while in the performance of duty.<sup>2</sup> She stopped work on August 23, 2019.<sup>3</sup>

In an undated attending physician's report (Form CA-20), an unidentifiable healthcare provider indicated diagnosed left knee pain as a result of collapsing while walking on August 22, 2019.

Dr. Christopher R. Becker, Board-certified in emergency medicine, noted on August 22, 2019 that appellant was seen that day in the emergency department and that appellant should remain off work for at least one week. In an after visit summary report of even date, Dr. Becker diagnosed acute left knee pain.

In an August 22, 2019 activity prescription form, an unidentifiable healthcare provider provided a diagnosis with left knee pain and found that she was unable to work.

In an August 22, 2019 work capacity evaluation (Form OWCP-5c), Dr. Marc Suffis, Board-certified in emergency medicine, diagnosed left knee strain and osteoarthritis.

In an August 27, 2019 Form CA-20, Dr. Suffis diagnosed left knee arthritis and sprain. He indicated that appellant was walking when she experienced left knee pain and buckling on August 22, 2019. Dr. Suffis noted that she had preexisting arthritis and a history of degenerative meniscus tear. He opined that it was "possible" that appellant's conditions were caused or aggravated by her employment activity. In a medical report of even date, Dr. Suffis reiterated appellant's history of osteoarthritis and a medial meniscus tear of the right knee. Appellant reported that her left knee was injured on August 22, 2019 from overuse due to the right knee injury. Dr. Suffis reviewed x-rays of the left knee, which revealed bone-on-bone medial compartment osteoarthritis. He diagnosed left knee sprain superimposed upon osteoarthritis. Dr. Suffis opined that his findings did not support the correlation between appellant's previous right knee injury and left knee condition. He further opined that her main problem with the left knee was arthritis. In another report of even date, Dr. Suffis again noted that appellant believed that her left knee pain and buckling were correlated to her right knee injury. He conducted a physical examination and diagnosed left knee strain and exacerbation of the preexisting osteoarthritis.

In an August 28, 2019 dispensary permit, Dr. Bruce Christen, an occupational medicine specialist, indicated that appellant injured her left knee on August 22, 2019.

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<sup>2</sup> The record reflects that appellant has a prior August 13, 2018 traumatic injury claim that OWCP accepted for right knee strain and medial meniscus tear under OWCP File No. xxxxxx483. OWCP has not administratively combined the claims.

<sup>3</sup> An undated work status report (Form CA-3) from the employing establishment indicated that appellant returned to full-time modified-duty work with restrictions on September 9, 2019.

In a separate August 28, 2019 medical document, Dr. Christen noted that appellant was injured on August 22, 2019 and provided work restrictions.

OWCP received a notification of personnel action (Standard Form (SF)-50), a painter apprentice position description, and a portion of a certificate of medical examination pertaining to the functional requirements and environmental factors involved to perform the duties of a painter apprentice.

In a September 6, 2019 medical report, Dr. Suffis noted that appellant believed that her previous right knee injury led to her present left knee injury. He opined that there was “no scientific validity to” appellant’s belief and stated that he could not support it “based on the standing scientific knowledge.” Dr. Suffis conducted a physical examination, which revealed mild gait disturbance with a mild limp, and diagnosed advanced osteoarthritis in her left knee and left knee arthritis with generative meniscal tear. He opined that it would be unlikely that her claim would be approved for the left knee. Dr. Suffis recommended physical therapy treatment. In a medical note of even date, he noted that appellant could return to work with restrictions. In a Form OWCP-5c of even date, Dr. Suffis diagnosed left knee sprain and arthritis and indicated that appellant was unable to work without restrictions. In a medical document of even date, he again indicated that appellant was injured on August 22, 2019 and provided work restrictions. Dr. Suffis noted that she required a splint and crutches.

In an October 31, 2019 medical report, Dr. Suffis noted that appellant continued to experience pain in her left knee. He indicated that she had a history of degenerative medial meniscus tear with osteoarthritis. Dr. Suffis noted that although appellant had similar findings on the right knee, they were administratively under different claims. He reviewed an x-ray studies of both knees, which revealed medial meniscus tear of the left knee with traumatic osteoarthritis.

On November 27, 2019 appellant presented to Dr. Suffis for a follow-up examination of her left knee. Dr. Suffis indicated that she suffered from bilateral medial meniscus tears with arthritis, right knee more severe than left knee. He diagnosed left knee medial meniscus tear with traumatic osteoarthritis. In a Form OWCP-5c of even date, Dr. Suffis reiterated his diagnosis and provided work restrictions.

In a December 30, 2019 medical report, Dr. Erin P. Moyer, a Board-certified orthopedic surgeon, noted that appellant presented with bilateral knee pain from separate injuries she sustained at work. She noted that appellant sustained her right knee injury on August 6, 2018 and her left knee injury on August 22, 2019. Dr. Moyer conducted a physical examination and diagnosed left knee mild osteoarthritis. In a Form OWCP-5c of even date, she diagnosed left knee arthritis and indicated that appellant could work with restrictions.

In a January 9, 2020 medical report, Dr. Suffis reiterated his diagnoses.

In a November 18, 2020 medical report, Dr. Suffis noted that appellant was previously diagnosed with left knee medial meniscal tear with traumatic osteoarthritis. He conducted a physical examination and reviewed an October 31, 2019 x-ray of the left knee, which demonstrated cartilage interval of the left knee of 3.8 mm medial and 5 mm lateral. Dr. Suffis diagnosed left

knee osteoarthritis. He noted that appellant's left knee was worsened from his last evaluation on January 9, 2020.

On November 30, 2020 appellant filed a notice of recurrence (Form CA-2a) alleging that she sustained a recurrence of disability on July 20, 2020. She contended that overuse of her left knee due to her right knee injury led to weakening of the left knee after the alleged August 22, 2019 employment incident.

In a December 2, 2020 development letter, OWCP informed appellant of the deficiencies of her claim, requested additional factual and medical evidence, and provided a factual questionnaire for her completion. It afforded her 30 days to respond.

In a December 7, 2020 development letter, OWCP informed appellant that additional evidence was needed to support her claim. It provided an additional factual questionnaire for her completion. A separate development letter of even date was sent to the employing establishment requesting information surrounding the circumstances of the alleged injury. OWCP afforded both parties 30 days to respond.

In an undated response to OWCP's development questionnaire, the employing establishment indicated that on the date of injury appellant was leaving work after her shift ended when she was injured on the employing establishment's premises.

By decision dated January 19, 2021, OWCP accepted that the August 22, 2019 employment incident occurred, as alleged. However, it denied appellant's traumatic injury claim finding that the medical evidence of record was insufficient to establish causal relationship between her diagnosed conditions and the accepted employment incident.

### **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 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,<sup>5</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>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>

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<sup>4</sup> *Supra* note 1.

<sup>5</sup> *S.C.*, Docket No. 18-1242 (issued March 13, 2019); *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> *T.H.*, Docket No. 18-1736 (issued March 13, 2019); *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> *T.E.*, Docket No. 18-1595 (issued March 13, 2019); *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).

To determine if an employee sustained a traumatic injury in the performance of duty, OWCP begins with an analysis of whether fact of injury has been established.<sup>8</sup> There are 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.<sup>9</sup> The second component is whether the employment incident caused a personal injury.<sup>10</sup>

Causal relationship is a medical question that requires rationalized medical opinion evidence to resolve the issue.<sup>11</sup> A physician's opinion on whether there is causal relationship between the diagnosed condition and the implicated employment incident must be based on a complete factual and medical background.<sup>12</sup> 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 appellant's specific employment incident.<sup>13</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, 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>14</sup>

### ANALYSIS

The Board finds that appellant has not met her burden of proof to establish a left knee condition causally related to the accepted August 22, 2019 employment incident.

In an August 27, 2019 Form CA-20, Dr. Suffis described the accepted August 22, 2019 employment incident and diagnosed left knee arthritis and sprain. He opined that it was "possible" that appellant's conditions were caused or aggravated by the employment activity. However, Dr. Suffis' opinion is speculative in nature. The Board has held that medical opinions that are speculative and equivocal are of diminished probative value.<sup>15</sup> Moreover, although Dr. Suffis indicated that appellant had a history of preexisting arthritis and degenerative meniscus tear, he failed to distinguish between the effects of the work-related injury and appellant's preexisting conditions. The Board has consistently held that complete medical rationalization is particularly necessary when there is a preexisting condition involving the same body part, and has required

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<sup>8</sup> *S.S.*, Docket No. 18-1488 (issued March 11, 2019); *T.H.*, 59 ECAB 388, 393-94 (2008).

<sup>9</sup> *E.M.*, Docket No. 18-1599 (issued March 7, 2019); *Elaine Pendleton*, 40 ECAB 1143 (1989).

<sup>10</sup> *E.M.*, *id.*; *John J. Carlone*, 41 ECAB 354 (1989).

<sup>11</sup> *S.S.*, *supra* note 8; *Robert G. Morris*, 48 ECAB 238 (1996).

<sup>12</sup> *C.F.*, Docket No. 18-0791 (issued February 26, 2019); *Jacqueline M. Nixon-Steward*, 52 ECAB 140 (2000).

<sup>13</sup> *Id.*

<sup>14</sup> Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3e (January 2013). *See R.D.*, Docket No. 18-1551 (issued March 1, 2019).

<sup>15</sup> *S.O.*, Docket No. 21-0002 (issued April 29, 2021); *H.A.*, Docket No. 18-1455 (issued August 23, 2019).

medical rationale differentiating between the effects of the work-related injury and the preexisting condition in such cases.<sup>16</sup> As such, this report is insufficient to establish appellant's claim.

In OWCP-5c forms dated August 22 and September 6, 2019, Dr. Suffis diagnosed left knee strain and osteoarthritis/arthritis and indicated that appellant was unable to return to work without restrictions. Similarly, on October 31 and November 27, 2019, and January 9, 2020, he diagnosed left knee medial meniscus tear with traumatic osteoarthritis and, on November 18, 2020 he diagnosed left knee osteoarthritis. However, Dr. Suffis offered no opinion on causal relationship. The Board has held that medical evidence that does not offer an opinion regarding the cause of an employee's condition or disability is of no probative value on the issue of causal relationship.<sup>17</sup> Therefore, these reports are also insufficient to establish appellant's burden of proof.

In a medical report and a Form OWCP-5c dated December 30, 2019, Dr. Moyer noted that appellant sustained a left knee injury on August 22, 2019 and diagnosed mild left knee osteoarthritis. However, she did not describe the accepted August 22, 2019 employment incident in detail or explain the pathophysiological process through which it could have caused appellant's diagnosed left knee conditions. The Board has held that a report is of limited probative value regarding causal relationship if it does not contain medical rationale explaining how an employment activity could have caused or aggravated a medical condition.<sup>18</sup> These reports are, therefore, insufficient to establish causal relationship.

In an August 27, 2019 report, Dr. Suffis conducted a physical examination and diagnosed knee strain and exacerbation of the preexisting osteoarthritis. He noted that appellant believed that her left knee injury on August 22, 2019 was correlated to her right knee injury. Dr. Suffis, however, did not provide his own opinion addressing the cause of the diagnosed conditions. As previously noted, medical evidence that fails to address causation is of no probative value on that issue.<sup>19</sup> Thus, this report is insufficient to establish causal relationship.

Dr. Suffis, in his medical documents dated September 6, 2019, noted that appellant was injured on August 22, 2019, found that she could return to work with restrictions, and provided work restrictions. However, he did not provide a specific diagnosis. The Board has held that a medical report lacking a firm diagnosis and a rationalized medical opinion regarding causal relationship is of no probative value.<sup>20</sup> Thus, these documents are also insufficient to establish causal relationship.

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<sup>16</sup> *Supra* note 14; *see also* *J.A.*, Docket No. 20-1195 (issued February 3, 2021).

<sup>17</sup> *R.O.*, Docket No. 20-1243 (issued May 28, 2021); *P.B.*, Docket No. 20-1602 (issued May 26, 2021); *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

<sup>18</sup> *See A.M.*, Docket No. 19-1394 (issued February 23, 2021); *V.D.*, Docket No. 20-0884 (issued February 12, 2021); *Y.D.*, Docket No. 16-1896 (issued February 10, 2017).

<sup>19</sup> *Supra* note 17; *see also* *L.G.*, Docket No. 20-0433 (issued August 6, 2020); *S.D.*, Docket No. 20-0413 (issued July 28, 2020); *S.K.*, Docket No. 20-0102 (issued June 12, 2020).

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

In a medical note and an after visit summary report dated August 22, 2019, Dr. Becker, noted that appellant was seen that day in the emergency department and was diagnosed with left knee pain. This Board has held that pain is a description of a symptom and not a compensable medical diagnosis.<sup>21</sup> Therefore, these documents are insufficient to establish appellant's burden of proof.

In an August 27, 2019 medical report, Dr. Suffis reviewed the x-rays of appellant's left knee and diagnosed left knee sprain superimposed upon osteoarthritis. He opined that his findings did not support the correlation between her right knee injury and left knee condition. Similarly, in his September 6, 2019 medical report, Dr. Suffis noted that appellant believed that her previous right knee injury led to her present left knee injury. He opined that, "based on the standing scientific knowledge," appellant's left knee condition was not related to her previous right knee injury. Dr. Suffis further opined that it would be unlikely that her claim would be approved for her left knee. The Board has held that medical evidence that negates causal relationship is of no probative value.<sup>22</sup> For this reason, these reports are insufficient to establish causal relationship.

Dr. Christen's reports did not contain an opinion on causal relationship. As such, they are of no probative value and are insufficient to establish appellant's claim.<sup>23</sup>

The remaining records are undated and unsigned. The Board has held that reports that are unsigned or bear an illegible signature lack proper identification and cannot be considered probative medical evidence as the author cannot be identified as a physician.<sup>24</sup> Thus, these medical documents are also insufficient to establish appellant's claim.

As appellant has not submitted rationalized medical evidence establishing a left knee condition causally related to the accepted August 22, 2019 employment incident, the Board finds that she has not met her 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.

### **CONCLUSION**

The Board finds that appellant has not met her burden of proof to establish a left knee condition causally related to the accepted August 22, 2019 employment incident.

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<sup>21</sup> See *K.S.*, Docket No. 19-1433 (issued April 26, 2021); *E.M.*, Docket No. 20-0678 (issued January 11, 2021); *S.L.*, Docket No. 19-1536 (issued June 26, 2020).

<sup>22</sup> *E.T.*, Docket No. 21-0014 (issued May 20, 2021); *C.M.*, Docket No. 19-1211 (issued August 5, 2020); *M.C.*, Docket No. 19-1074 (issued June 12, 2020).

<sup>23</sup> See *supra* note 17.

<sup>24</sup> *C.M.*, Docket No. 21-0004 (issued May 24, 2021); *T.D.*, Docket No. 20-0835 (issued February 2, 2021); *Merton J. Sills*, 39 ECAB 572, 575 (1988).

**ORDER**

**IT IS HEREBY ORDERED THAT** the January 19, 2021 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: October 22, 2021  
Washington, DC

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

Janice B. Askin, Judge  
Employees' Compensation Appeals Board

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