

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

M.G., Appellant	)	
	)	
and	)	<b>Docket No. 21-0747</b>
	)	<b>Issued: October 15, 2021</b>
U.S. POSTAL SERVICE, POST OFFICE, San Antonio, TX, 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  
PATRICIA H. FITZGERALD, Alternate Judge  
VALERIE D. EVANS-HARRELL, Alternate Judge

**JURISDICTION**

On April 21, 2021 appellant filed a timely appeal from a January 6, 2021 merit decision of the Office of Workers’ Compensation Programs (OWCP).<sup>1</sup> Pursuant to the Federal Employees’ Compensation Act<sup>2</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 his burden of proof to establish a right knee condition causally related to the accepted October 31, 2020 employment incident.

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<sup>1</sup> The Board notes that, following the January 6, 2021 decision, OWCP received 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.*

<sup>2</sup> 5 U.S.C. § 8101 *et seq.*

## **FACTUAL HISTORY**

On November 2, 2020 appellant, then a 40-year-old motor vehicle operator, filed a traumatic injury claim (Form CA-1) alleging that on October 31, 2020 he injured his right knee when it popped after he dismounted a spotter in order to “chalk” a trailer while in the performance of duty. He stopped work on October 31, 2020. On the reverse side of the claim form appellant’s supervisor indicated that he was injured in the performance of duty.

OWCP received a duty status report (Form CA-17) dated October 31, 2020 from Dr. Luke Galindo, a family medicine specialist. Dr. Galindo noted a diagnosis of right knee strain and related that appellant could return to work with restrictions. Appellant submitted a report dated November 9, 2020 from Dr. Galindo in which he noted the date of injury as October 31, 2020 and related that as appellant was descending down from an elevated platform, he pivoted right to place chocks under a trailer and he felt a pop in his right knee. Dr. Galindo diagnosed right knee strain and stated that it was probably a work-related injury. In a work status form report dated November 9, 2020, he noted appellant’s date of injury as October 31, 2020, a diagnosis of right knee strain, and indicated that appellant could return to work that day with restrictions.

In a development letter dated November 25, 2020, OWCP advised appellant of the type of factual and medical evidence needed, including a medical report containing a physician’s opinion, supported by medical explanation, as to how the reported work incident caused a diagnosed medical condition. OWCP afforded appellant 30 days to submit the necessary evidence.

In response, appellant submitted a medical report dated October 31, 2020 from Dr. John Lehew, a Board-certified family practitioner. Dr. Lehew noted the date of injury of October 31, 2020 and diagnosed right knee strain.

By decision dated January 6, 2021, OWCP accepted that the June 20, 2020 employment incident occurred as alleged, but denied appellant’s claim, finding that the medical evidence of record was insufficient to establish causal relationship between a diagnosed medical condition and the accepted employment incident. It concluded, therefore, that the requirements had not been met to establish an injury.

## **LEGAL PRECEDENT**

An employee seeking benefits under FECA<sup>3</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 FECA, that the claim was timely filed within the applicable time limitation period of FECA,<sup>4</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

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<sup>3</sup> *Id.*

<sup>4</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).

to the employment injury.<sup>5</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>6</sup>

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it must first be determined whether a fact of injury has been established. There are two components involved in establishing fact of injury. The first component to be established is that 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. The second component is whether the employment incident caused a personal injury and can be established only by medical evidence.<sup>7</sup>

The medical evidence required to establish causal relationship between a claimed specific condition and an employment incident is rationalized medical opinion evidence.<sup>8</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>9</sup>

### ANALYSIS

The Board finds that appellant has not met his burden of proof to establish a right knee condition causally related to the accepted October 31, 2020 employment incident.

Appellant submitted a medical report dated November 9, 2020 from Dr. Galindo who diagnosed right knee strain and stated that it was probably a work-related injury. While Dr. Galindo provided an opinion on the causal relationship, he did not offer any rationale to explain how the accepted employment incident would have caused appellant's diagnosed condition.<sup>10</sup> The Board has held that a medical opinion should offer a medically-sound explanation of how the specific employment incident physiologically caused the diagnosed condition. Additionally, Dr. Galindo's opinion that appellant's right knee strain was "probably" a work-related injury was equivocal in nature. The Board has held that speculative and equivocal medical opinions regarding

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<sup>5</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>6</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>7</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>8</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>9</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).

<sup>10</sup> *T.W.*, Docket No. 20-0767 (issued January 13, 2021); *see H.A.*, Docket No. 18-1466 (issued August 23, 2019); *L.R.*, Docket No. 16-0736 (issued September 2, 2016).

causal relationship have no probative value.<sup>11</sup> This report, therefore, is insufficient to establish causal relationship.

Dr. Galindo also completed work status reports dated October 31 and November 9, 2020 wherein he noted the date of injury, a diagnosis of right knee strain, and appellant's work restrictions. 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>12</sup> As such, the Board finds that these reports are also insufficient to establish causal relationship.

OWCP also received a medical report dated October 31, 2020 from Dr. Lehew, which listed appellant's diagnosis as a right knee strain. However, Dr. Lehew did not provide his own medical opinion explaining the cause of appellant's diagnosed conditions. The Board has held that medical evidence that does not offer an opinion regarding the cause of an employee's condition is of no probative value on the issue of causal relationship.<sup>13</sup> As such, this report is insufficient to establish appellant's claim.

As there is no medical evidence of record establishing that appellant's diagnosed right knee condition was causally related to the accepted employment incident, the Board finds that appellant has not met his 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 his burden of proof to establish a right knee condition causally related to the accepted October 31, 2020 employment incident.

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<sup>11</sup> *B.S.*, Docket No. 20-0927 (issued January 29, 2021); *R.C.*, Docket No. 18-1695 (issued March 12, 2019); *Ricky S. Storms*, 52 ECAB 349 (2001).

<sup>12</sup> *J.T.*, Docket No. 20-1486 (issued March 16, 2021); *E.R.*, Docket No. 20-0880 (issued December 2, 2020); *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

<sup>13</sup> *D.C.*, Docket No. 19-1093 (issued June 25, 2020); *see L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

**ORDER**

**IT IS HEREBY ORDERED THAT** the January 6, 2021 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: October 15, 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