

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

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F.G., Appellant)	
)	
and)	Docket No. 22-0268
)	Issued: August 16, 2022
DEPARTMENT OF THE ARMY, TANK- AUTOMOTIVE AND ARMAMENTS COMMAND, ANNISTON ARMY DEPOT, Anniston, AL, 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
VALERIE D. EVANS-HARRELL, Alternate Judge
JAMES D. MCGINLEY, Alternate Judge

JURISDICTION

On December 9, 2021 appellant filed a timely appeal from an October 6, 2021 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act¹ and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.²

¹ 5 U.S.C. § 8101 *et seq.*

² The Board notes that, following the October 6, 2021 decision, a appellant submitted additional evidence to OWCP. 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.*

ISSUE

The issue is whether appellant has met his burden of proof to expand the acceptance of his claim to include an exacerbation of preexisting arthritis of the right knee as causally related to the accepted November 16, 2020 employment injury.

FACTUAL HISTORY

On December 10, 2020 appellant, then a 63-year-old heavy mobile equipment mechanic, filed a traumatic injury claim (Form CA-1) alleging that on November 16, 2020 he pulled something in his right knee when he fell over a welding machine while in the performance of duty. He stopped work on November 17, 2020 and returned to work the same day.

In support of his claim, appellant submitted a November 18, 2020 report from Dr. Gordon T. Hardy, a Board-certified orthopedic surgeon, relating that appellant was injured at work on November 17, 2020. Dr. Hardy's examination of the right knee revealed pain with range of motion from 0 to 90 degrees, lateral knee pain, but no joint effusion, and pain over the lateral collateral ligament without instability. He noted that x-rays of the right knee taken that day revealed tricompartmental arthritis with joint space narrowing, as well as osteophyte formation, but no acute findings. Dr. Hardy diagnosed lateral collateral ligament sprain of the right knee and exacerbation of right knee arthritis. He recommended conservative treatment, administered a cortisone injection to the right knee, and placed appellant on light-duty work with restrictions. In a work restriction note of even date, Dr. Hardy placed appellant on light-duty work with restrictions pending reevaluation in two weeks.

In the December 2, 2020, January 14, and February 18, 2021 reports, Dr. Hardy related appellant's history of injury, diagnosed lateral collateral ligament sprain of the right knee and exacerbation of right knee arthritis, and advised appellant to continue on light-duty work using a right knee brace and physical therapy. In the December 2, 2020 report, he noted that appellant had received some benefit from the cortisone injection. Dr. Hardy's examination of the right knee demonstrated lateral knee pain and pain on varus stress. He noted that x-rays of the right knee taken that day again revealed tricompartmental arthritis with joint space narrowing, especially in the medial compartment, but no acute findings. In the January 14, 2021 report, Dr. Hardy related that appellant continued to experience mild lateral knee pain. In a work restriction note of even date, he advised that appellant should remain on light-duty work with restrictions until after his next appointment in a month. The February 18, 2021 report noted that appellant had an improved range of motion from 0 to 110 degrees with pain in the extremes of flexion only and lateral-sided knee pain, but no instability or joint effusion.

By decision dated March 23, 2021, OWCP accepted appellant's claim for sprain of the lateral collateral ligament of the right knee.

In a development letter of even date, OWCP informed appellant of the evidence needed to expand the acceptance of his claim to include additional conditions, specifically exacerbation of preexisting arthritis of the right knee, causally related to the November 16, 2020 employment injury. It afforded him 30 days to submit the necessary evidence.

In response, appellant submitted a March 18, 2021 report from Dr. Hardy relating appellant's history of injury and noting that appellant had improved and wanted to return to regular-duty work. Dr. Hardy diagnosed resolved lateral collateral ligament sprain of the right knee and moderate-to-severe tricompartmental arthritis of the right knee. He opined that appellant had returned to his baseline status and noted that the underlying knee arthritis might eventually require knee replacement surgery, "but this would not be a work-related procedure." Dr. Hardy released appellant to regular-duty work.

By decision dated October 6, 2021, OWCP denied expansion of the acceptance of the claim to include the additional diagnosed condition of the right knee, finding that the medical evidence was insufficient to establish causal relationship between the November 16, 2020 employment injury and an exacerbation of preexisting arthritis of the right knee.

LEGAL PRECEDENT

Where an employee claims that a condition not accepted or approved by OWCP was due to an employment injury, he or she bears the burden of proof to establish that the condition is causally related to the employment injury.³

Causal relationship is a medical question that requires medical opinion evidence to resolve the issue.⁴ The opinion of the physician must be based on a complete factual and medical background, must be one of reasonable certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the accepted employment injury.⁵

To establish causal relationship between the condition as well as any attendant disability claimed and the employment injury, an employee must submit rationalized medical evidence.⁶ The opinion of the physician must be based on a complete factual and medical background of the claimant, 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 the specific employment factors identified by the claimant.⁷ The weight of medical evidence is determined by its reliability, its probative value, its convincing quality, the care of analysis manifested, and the medical rationale expressed in support of the physician's opinion.⁸

³ *D.B.*, Docket No. 20-1280 (issued March 2, 2021); *R.R.*, Docket No. 19-0086 (issued February 10, 2021); *K.T.*, Docket No. 19-1718 (issued April 7, 2020); *Jaja K. Asaramo*, 55 ECAB 200 (2004).

⁴ *E.M.*, Docket No. 18-1599 (issued March 7, 2019); *Robert G. Morris*, 48 ECAB 238 (1996).

⁵ *Id.*

⁶ *T.K.*, Docket No. 18-1239 (issued May 29, 2019); *M.W.*, 57 ECAB 710 (2006); *John D. Jackson*, 55 ECAB 465 (2004).

⁷ *D.S.*, Docket No. 18-0353 (issued February 18, 2020); *T.K., id.*; *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁸ *See P.M.*, Docket No. 18-0287 (issued October 11, 2018).

ANALYSIS

The Board finds that appellant has not met his burden of proof to expand the acceptance of his claim to include an exacerbation of preexisting arthritis of the right knee as causally related to the accepted November 16, 2020 employment injury.

In a report dated March 18, 2021, Dr. Hardy related appellant's history of injury and diagnosed resolved lateral collateral ligament sprain of the right knee and moderate-to-severe tricompartmental arthritis of the right knee. He further noted that appellant might require a knee replacement to treat the underlying arthritis but explained that such a procedure would not be considered work related. Thus, this report is insufficient to establish causal relationship.

In reports dated November 18, 2020 through February 18, 2021, Dr. Hardy related appellant's history of injury and diagnosed a lateral collateral ligament sprain of the right knee and exacerbation of right knee arthritis. In work restriction notes dated November 18, 2020 and January 14, 2021, he placed appellant on light-duty work with restrictions. In none of those reports or notes, however, did Dr. Hardy provide an opinion regarding causal relationship between appellant's additional diagnosed condition and the accepted November 16, 2020 employment injury. 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.⁹ Thus, the Board finds that these reports from Dr. Hardy are of no probative value on the issue of causal relationship and are insufficient to meet appellant's burden of proof.

As the medical evidence of record is insufficient to establish expansion of the acceptance of the claim to include an additional condition causally related to his accepted employment injury, 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 expand the acceptance of his claim to include an exacerbation of preexisting arthritis of the right knee as causally related to the accepted November 16, 2020 employment injury.

⁹ *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 October 6, 2021 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: August 16, 2022
Washington, DC

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

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

James D. McGinley, Alternate Judge
Employees' Compensation Appeals Board