

Pursuant to the Federal Employees' Compensation Act³ (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 disability from work for the period July 10, 2018 through May 30, 2019 causally related to the accepted factors of his federal employment.

FACTUAL HISTORY

On July 5, 2018 appellant, then a 61-year-old letter carrier, filed an occupational disease claim (Form CA-2) alleging that he sustained a torn meniscus in his right knee due to factors of his federal employment, including prolonged walking of more than 12 miles per day. He noted that he had undergone several arthroscopic procedures on his right knee in the past, with the most recent one being in 2014, and that he began experiencing pain in his right knee during the summer of 2017.⁴ Appellant noted that he first became aware of his condition on June 15, 2017 and realized its relation to his federal employment in August 2017. He stopped work on April 16, 2018. On April 29, 2019 OWCP accepted appellant's claim for unilateral primary osteoarthritis, right knee.

In a May 13, 2019 letter, the employing establishment advised that the last day appellant worked was April 12, 2018, the last day he used sick or annual leave was July 10, 2018 and the first day he used leave without pay was July 11, 2018.

On September 5, 2019 appellant filed a claim for compensation (Form CA-7) for disability from work for the period July 10, 2018 through May 30, 2019.⁵

In a compensation claim development letter dated September 18, 2019, OWCP requested that appellant submit a well-reasoned medical report from his attending physician including a thorough explanation with objective findings, as to how his accepted condition prevented him from performing his employment duties during the claimed period of disability. It afforded him 30 days to submit the requested evidence.

In an October 24, 2019 diagnostic report, Dr. Brian Worm, a Board-certified radiologist, conducted an x-ray scan of appellant's right knee, finding no acute fracture or dislocation. In diagnostic reports of even date he conducted x-ray scans of appellant's right ankle and hip, noting no definite acute fractures or dislocations.

³ 5 U.S.C. § 8101 *et seq.*

⁴ Appellant has a previously accepted January 27, 2014 traumatic injury claim (Form CA-1) under OWCP File No. xxxxxx302 for a tear of the medial meniscus of the left knee, a left knee contusion and a sprain of the left wrist. On April 29, 2019 OWCP administratively combined OWCP File Nos. xxxxxx302 and xxxxxx831, with the latter designated as the master file.

⁵ Appellant noted that he retired from the employing establishment effective May 30, 2019.

In a medical report of even date Dr. John Petrey, Board-certified in emergency medicine, evaluated appellant for a fall in which appellant stepped backwards and fell in a twisting manner, injuring his right leg. On review of the diagnostic studies, he diagnosed a muscle strain of the right lower leg.

In a February 24, 2020 diagnostic report Dr. David Rodriguez, a Board-certified radiologist, performed an x-ray scan of appellant's right knee, observing moderate osteoarthritis along the medial compartment, and mild osteoarthritis along the lateral compartment. He noted that the patellar alignment was anatomic and the soft tissue was unremarkable.

By decision dated April 2, 2020, OWCP denied appellant's claim for compensation, finding that the medical evidence of record did not address his claimed disability.

On April 14, 2020 appellant, through counsel, requested a telephonic hearing before a representative of OWCP's Branch of Hearings and Review with regard to OWCP's April 2, 2020 decision.

A telephonic hearing was held on July 7, 2020. Appellant explained that he stopped work on July 10, 2018 due to the pain in his right knee and that, because the office where he worked was so small, there were no light-duty assignments available to him. The hearing representative addressed appellant's previous knee injuries and noted that appellant had submitted no medical evidence discussing his claimed period of disability. The hearing representative explained that he would need to submit contemporaneous evidence which opined on his work capacity during the period. He held the case record open for an additional 30 days to allow for the submission of evidence.

In a July 27, 2020 narrative report, Dr. Kris Williams, a Board-certified orthopedic surgeon, noted that he began treating appellant for right knee pain in January 2016. On evaluation and review of diagnostic studies, he diagnosed a degenerative medial meniscus tear and severe arthritis of the right knee and opined that appellant's conditions were caused by the persistent and excessive walking on uneven terrain appellant performed as a part of his employment duties. Dr. Williams reviewed the history of treatment, including arthroscopic knee surgery on appellant's right knee. Moving forward, he recommended that appellant undergo a total knee arthroplasty to treat his osteoarthritis. Dr. Williams opined that the severity of appellant's osteoarthritis eliminated the possibility of appellant returning to his normal job as his knee was not suited for him to walk 13 miles a day in the performance of his employment duties as a letter carrier.⁶

By decision dated September 15, 2020, the hearing representative affirmed the April 2, 2020 decision.

⁶ In an August 10, 2020 letter, counsel requested that appellant's claim be expanded to include a degenerative medial meniscus tear, right knee.

LEGAL PRECEDENT

An employee seeking benefits under FECA⁷ has the burden of proof to establish the essential elements of his or her claim by the weight of the evidence.⁸ For each period of disability claimed, the employee has the burden of proof to establish that he or she was disabled from work as a result of the accepted employment injury.⁹ Whether a particular injury causes an employee to become disabled from work, and the duration of that disability, are medical issues that must be proven by a preponderance of probative and reliable medical opinion evidence.¹⁰

Under FECA, the term “disability” means an incapacity because of an employment injury, to earn the wages the employee was receiving at the time of the injury.¹¹ When, however, the medical evidence establishes that the residuals or sequelae of an employment injury are such that, from a medical standpoint, prevent the employee from continuing in his or her employment, he or she is entitled to compensation for any loss of wages.¹²

The medical evidence required to establish causal relationship between a claimed period of disability and an employment injury is rationalized medical opinion evidence. 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 claimed disability and the specific employment factors identified by the claimant.¹³

The Board will not require OWCP to pay compensation for disability in the absence of medical evidence directly addressing the specific dates of disability for which compensation is claimed. To do so, would essentially allow an employee to self-certify his or her disability and entitlement to compensation.¹⁴

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish disability from work for the period July 10, 2018 through May 30, 2019.

⁷ *Supra* note 3.

⁸ *Y.D.*, Docket No. 20-0097 (issued August 25, 2020); *D.P.*, Docket No. 18-1439 (issued April 30, 2020); *Amelia S. Jefferson*, 57 ECAB 183 (2005).

⁹ *Id.*; *Fereidoon Kharabi*, 52 ECAB 291, 293 (2001).

¹⁰ 20 C.F.R. § 10.5(f); *J.M.*, Docket No. 18-0763 (issued April 29, 2020).

¹¹ *Id.* at § 10.5(f); *see J.T.*, Docket No. 19-1813 (issued April 14, 2020); *Cheryl L. Decavitch*, 50 ECAB 397 (1999).

¹² *J.T.*, *id.*; *Merle J. Marceau*, 53 ECAB 197 (2001).

¹³ *T.T.*, Docket No. 18-1054 (issued April 8, 2020).

¹⁴ *D.P.*, *supra* note 8; *Sandra D. Pruitt*, 57 ECAB 126 (2005).

In his July 27, 2020 narrative report, Dr. Williams recounted his history of treatment for appellant relating to his right knee pain. He diagnosed a degenerative medial meniscus tear and severe osteoarthritis of the right knee. Dr. Williams opined that appellant's conditions were caused by the persistent and excessive walking on uneven terrain he performed as a part of his employment duties and provided that the severity of appellant's osteoarthritis eliminated the possibility of him returning to his normal duties as a letter carrier, believing that his knee would not be suited for him to walk 13 miles per day. He, however, did not provide an opinion on causal relationship between appellant's claimed disability and the accepted employment condition(s). 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.¹⁵ Therefore, this evidence of no probative value and is insufficient to establish appellant's disability claim.

Appellant submitted multiple diagnostic studies dated from October 24, 2019 to February 24, 2020. However, the Board has held that diagnostic studies, standing alone, lack probative value as they do not address whether the employment injury caused any of the diagnosed conditions or associated disability.¹⁶ For this reason, the diagnostic studies are of no probative value.

Appellant also submitted an October 24, 2019 medical report in which Dr. Petrey diagnosed a muscle strain of the right lower leg after appellant stepped back and fell in a twisting manner, injuring his right leg. However, as Dr. Petrey provided no opinion on causal relationship, his report is of no probative value and is insufficient to establish the claim.¹⁷

As appellant has not submitted a medical report from a physician which includes a rationalized medical opinion explaining how his accepted employment-related medical condition caused the claimed disability, the Board finds that he 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 disability from work for the period July 10, 2018 through May 30, 2019.

¹⁵ *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

¹⁶ *See J.S.*, Docket No. 17-1039 (issued October 6, 2017).

¹⁷ *Supra* note 17.

ORDER

IT IS HEREBY ORDERED THAT the September 15, 2020 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: February 17, 2022
Washington, DC

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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