

J.M., Appellant

**U.S. POSTAL SERVICE, POST OFFICE,
Tampa, FL, Employer**

Case Submitted on the Record

² The Board notes that, following the September 23, 2020 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.*

FACTUAL HISTORY

On June 15, 2020 appellant, then a 43-year-old city carrier assistant, filed a traumatic injury claim (Form CA-1) alleging that on June 8, 2020 she injured her right knee and leg when she fell exiting her vehicle and walking to a mailbox. She stopped work on June 8, 2020.

A June 11, 2020 state workers' compensation form report signed by Lori Spicer, an advanced practice registered nurse, indicated that appellant sought treatment for a work-related injury she sustained on June 8, 2020. Appellant was diagnosed with right anterior knee pain and contusion. In a duty status report (Form CA-17) of even date, Ms. Spicer diagnosed right knee contusion and provided work restrictions.

In a June 15, 2020 statement, the employing establishment controverted appellant's claim, noting that it found no evidence of her falling while delivering mail.

In a June 15, 2020 Form CA-17, an unidentifiable healthcare provider diagnosed right knee contusion.

Appellant submitted prescription slips from Ms. Spicer dated June 19, 2020 for medication and an order for a magnetic resonance imaging (MRI) scan.

A July 9, 2020 MRI scan of the right knee demonstrated bone narrowing, which signaled abnormality involving the inferior pole of the patella, and minor prepatellar soft tissue inflammatory change. Findings were also suspicious for a subacute bone bruise/impaction fracture and likely subacute contusion.

Appellant also submitted an August 7, 2020 state workers' compensation form report signed by Brittany Alce, a certified physician assistant.

In a development letter dated August 18, 2020, OWCP informed appellant that her claim initially appeared to be a minor injury that resulted in minimal or no lost time from work, and while limited expenses had been authorized, a formal decision was now required. It advised appellant of the type of factual and medical evidence necessary to establish her claim and provided a questionnaire for her completion. OWCP afforded appellant 30 days to provide the necessary evidence.

In a June 11, 2020 report, Ms. Spicer indicated that appellant presented with right knee pain related to a June 8, 2020 incident where she slipped in a slippery substance while delivering mail at work. Appellant alleged that she first fell on her right knee and then on her left knee. Ms. Spicer conducted a physical examination and diagnosed right knee injury, pain, and contusion.

A June 11, 2020 x-ray of the right knee revealed mild osteoarthritic knee narrowing and spurring at the right patellofemoral joint.

In a June 19, 2020 report, Ms. Spicer noted that appellant continued to experience right knee pain. She reiterated her findings and diagnoses.

In an August 7, 2020 report, Ms. Alce conducted a physical examination and diagnosed right knee injury, pain, and contusion.

Appellant also submitted a September 17, 2020 state workers' compensation form report signed by Dr. Richard Bost, Board-certified in family medicine, who indicated that appellant sought treatment for a work-related injury she sustained on June 8, 2020.

By decision dated September 23, 2020, OWCP denied appellant's traumatic injury claim. It accepted that the June 8, 2020 employment incident occurred as alleged, but denied her claim finding that she had not submitted sufficient medical evidence to establish a medical diagnosis. OWCP concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

LEGAL PRECEDENT

An employee seeking benefits under FECA³ 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,⁴ 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.⁵ 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.⁶

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 and 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.⁷

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

³ *Supra* note 1.

⁴ *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).

⁵ *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).

⁶ *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).

⁷ *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).

⁸ *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).

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.⁹

ANALYSIS

The Board finds that appellant has met her burden of proof to establish a right knee contusion causally related to the accepted June 8, 2020 employment incident.

OWCP found that the June 8, 2020 employment incident, in which appellant fell while delivering mail, had occurred in the performance of duty, as alleged. In a number of reports, Ms. Spicer diagnosed a contusion of the right knee. OWCP's procedures provide that, if a condition reported is a minor one, such as a burn, laceration, insect sting, or animal bite, which can be identified on visual inspection by a lay person, a case may be accepted without a medical report.¹⁰

As the evidence of record establishes that appellant's accepted employment incident resulted in a visible injury, the Board finds that she has met her burden of proof to establish a right knee contusion causally related to the accepted June 8, 2020 employment incident.¹¹ The case will, therefore, be remanded to OWCP for payment of medical expenses for appellant's diagnosed right knee contusion.

The Board further finds that appellant has not established additional conditions causally related to the accepted employment injury.

Appellant submitted reports that diagnosed pain, but provided no diagnosis other than contusion. The Board has consistently held that pain is a symptom and not a compensable medical diagnosis.¹² A medical report lacking a firm diagnosis is of no probative value.¹³ As such, this evidence is insufficient to meet appellant's 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.

⁹ *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).

¹⁰ See Federal (FECA) Procedure Manual, Part 2 -- Claims, *Initial Development of Claims*, Chapter 2.800.6(a) (June 2011); Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3(c) (January 2013). See also *R.H.*, Docket No. 20-1684 (issued August 27, 2021); *A.J.*, Docket No. 20-0484 (issued September 2, 2020).

¹¹ *Id.*; *P.B.*, Docket No. 20-1643 (issued March 30, 2022); *S.K.*, Docket No. 18-1411 (issued July 22, 2020).

¹² See *B.T.*, Docket No. 22-0022 (issued May 23, 2022); *S.L.*, Docket No. 19-1536 (issued June 26, 2020); *B.P.*, Docket No. 12-1345 (issued November 13, 2012).

¹³ *J.P.*, Docket No. 20-0381 (issued July 28, 2020); *R.L.*, Docket No. 20-0284 (issued June 30, 2020).

CONCLUSION

The Board finds that appellant established a right knee contusion causally related to the accepted June 8, 2020 employment incident. The Board further finds that that appellant has not established additional conditions causally related to the accepted employment injury.

ORDER

IT IS HEREBY ORDERED THAT the September 23, 2020 decision of the Office of Workers' Compensation Programs is reversed in part and affirmed in part.

Issued: June 27, 2022
Washington, DC

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

Patricia H. Fitzgerald, Deputy Chief Judge
Employees' Compensation Appeals Board

Janice B. Askin, Judge
Employees' Compensation Appeals Board