



## ISSUE

The issue is whether OWCP abused its discretion by denying authorization for right knee arthroscopy.

## FACTUAL HISTORY

On April 4, 2018 appellant, then a 41-year-old electronics systems technician, filed a traumatic injury claim (Form CA-1) alleging that on April 2, 2018 she sustained multiple injuries to her neck, back, head, hips, legs, arms, and hands when she was in a motor vehicle accident while in the performance of duty. She stopped work on the date of injury and returned in a light-duty capacity beginning February 3, 2020. OWCP initially accepted the claim for concussion without loss of consciousness and sprain of ligaments of the cervical spine. It later expanded the acceptance of the claim to include post-concussion syndrome, displaced closed fracture of the fifth cervical vertebra, right-sided lumbago with sciatica, bilateral sprains of the medial collateral ligaments of the knees, recurrent severe major depressive disorder, and adjustment disorder with anxiety.

An x-ray of appellant's knees obtained on April 16, 2020 demonstrated no acute osseous abnormality and mild degenerative changes of the knees.

In a medical authorization request form dated July 9, 2020, appellant requested OWCP's authorization for bilateral knee arthroscopy.

In a development letter dated November 25, 2020, OWCP informed appellant that the evidence of record was insufficient to establish that the proposed procedure was necessary to treat the effects of her accepted employment-related conditions. It requested that she provide a narrative explanation from her physician explaining why the procedure was medically necessary, including an explanation as to how it was causally related to the accepted traumatic event.

In a November 11, 2020 report, Dr. Thomas Matelic, a Board-certified orthopedic surgeon, examined appellant for complaints of bilateral knee symptoms. He reviewed her history of injury, physical findings on examination, and diagnostic studies. Dr. Matelic diagnosed aggravation or causation of underlying patellofemoral arthrosis; medial compartment arthrosis of the bilateral knees, left worse than right and bilateral meniscal tears. He recommended arthroscopic evaluation and partial meniscectomy. Dr. Matelic scheduled a right knee arthroscopy with meniscectomy, noting that this would not address all of her symptoms related to underlying arthritis, and that her left knee may eventually require total knee arthroplasty.

Magnetic resonance imaging (MRI) scans of the knees obtained on October 12, 2020 indicated, on the left, tricompartmental osteoarthrosis with mild-to-moderate cartilage abnormalities and subchondral signal changes in the medial and patellofemoral compartments, and intrasubstance signal abnormalities in the medial and lateral menisci meeting criteria for tear in the anterior horn of the lateral meniscus with a low probability in the posterior horn of the medial meniscus; and on the right, a medial meniscal body tear and moderate tricompartmental degenerative changes with full-thickness cartilage loss and associated subchondral signal changes in the lateral patellar facet as well as high-grade cartilage thinning in the medial compartment.

In a letter dated January 11, 2021, Dr. Madiha Farhat, a Board-certified family practitioner, noted that appellant had been seen in her office for bilateral knee pain, which had been an ongoing issue since her April 2, 2018 employment injury. She reviewed the MRI scans of October 12, 2020 and opined that appellant required right meniscal surgery and may require replacement in the future, while the left had too much damage for arthroscopy and would require a replacement in the future. Dr. Farhat opined that appellant's meniscal tears were due to the April 2, 2018 employment injury.

On February 26, 2021 OWCP requested that Dr. Todd Fellars, a Board-certified orthopedic surgeon acting as OWCP's district medical adviser (DMA), review the medical record and a statement of accepted facts (SOAF) and advise as to whether the medical evidence of record supported appellant's request for authorization for a right knee arthroscopy.

In a memorandum dated March 12, 2021, the DMA reviewed the medical record and SOAF. He stated that while the requested right knee surgery was due to appellant's meniscal tear, meniscal tear was not an accepted condition in this case. The DMA further noted that appellant had tricompartmental degenerative changes and that the symptoms of her meniscal condition were likely associated with her arthritis *versus* the accepted work injury. He opined that the right knee arthroscopy was not medically necessary to treat her condition, given that her symptoms were inconsistent with meniscal tear, but consistent with knee osteoarthritis. The DMA disagreed with Dr. Farhat's opinion on surgery, explaining that it was not likely to improve appellant's pain or function and that knee arthroscopy was not a recommended treatment for individuals with symptomatic knee arthritis.

By decision dated April 12, 2021, OWCP denied appellant's request for authorization for right knee arthroscopy. It found that the medical evidence of record was insufficient to establish that the procedure was medically necessary to treat the effects of her accepted work-related conditions.

On April 19, 2021 appellant, through counsel, requested a telephonic hearing before a representative of OWCP's Branch of Hearings and Review. The hearing was held on July 8, 2021.

By decision dated September 20, 2021, OWCP's hearing representative affirmed the April 12, 2021 decision.

### **LEGAL PRECEDENT**

Section 8103 of FECA<sup>4</sup> provides that the United States shall furnish to an employee who is injured while in the performance of duty, the services, appliances, and supplies prescribed or recommended by a qualified physician, which OWCP considers likely to cure, give relief, reduce the degree, or the period of disability, or aid in lessening the amount of monthly compensation.<sup>5</sup> In interpreting section 8103 of FECA, the Board has recognized that OWCP has broad discretion in approving services provided, with the only limitation on OWCP's authority being that of

---

<sup>4</sup> *Supra* note 2 at § 8103.

<sup>5</sup> *Id.*, see also *N.G.*, Docket No. 18-1340 (issued March 6, 2019).

reasonableness.<sup>6</sup> OWCP has administrative discretion in choosing the means to achieve this goal and the only limitation on OWCP's authority is that of reasonableness.<sup>7</sup>

Abuse of discretion is generally shown through proof of manifest error, clearly unreasonable exercise of judgment, or actions taken which are contrary to both logic and probable deductions from established facts. It is not enough to merely show that the evidence could be construed so as to produce a contrary factual conclusion.<sup>8</sup>

While OWCP is obligated to pay for treatment of employment-related conditions, appellant has the burden of proof to establish that the expenditure is incurred for treatment of the effects of an employment-related injury or condition.<sup>9</sup> Proof of causal relationship in a case such as this must include supporting rationalized medical evidence.<sup>10</sup> In order to prove that the procedure is warranted, appellant must establish that the procedure was for a condition causally related to the employment injury and that the procedure was medically warranted. Both of these criteria must be met in order for OWCP to authorize payment.<sup>11</sup>

### ANALYSIS

The Board finds that OWCP has not abused its discretion in denying appellant's request for right knee arthroscopy.

In a November 11, 2020 report, Dr. Matelic diagnosed aggravation or causation of underlying patellofemoral arthrosis; medial compartment arthrosis of the bilateral knees, left worse than right; and bilateral meniscal tears. He recommended arthroscopic evaluation and partial meniscectomy. In a letter dated January 11, 2021, Dr. Farhat noted that appellant had been seen in her office for bilateral knee pain, which had been an ongoing issue since her April 2, 2018 employment injury. She reviewed the MRI scans of October 12, 2020 and opined that appellant required right meniscal surgery and may require replacement in the future. Dr. Farhat opined that appellant's meniscal tears were due to the employment injury of April 2, 2018. However, neither Dr. Matelic nor Dr. Farhat explained why the requested surgery was necessary to treat appellant's accepted conditions, as right knee meniscal tear is not an accepted condition in this case.<sup>12</sup>

By contrast, in a memorandum dated March 12, 2021, the DMA reviewed the medical record and SOAF. He stated that, while the requested surgery was for treatment of appellant's meniscal tear, OWCP had not accepted meniscal tear as an employment-related condition in this

---

<sup>6</sup> *D.W.*, Docket No. 19-0402 (issued November 13, 2019); *see also Daniel J. Perea*, 42 ECAB 214, 221 (1990) (abuse of discretion by OWCP is generally shown through proof of manifest error, clearly unreasonable exercise of judgment, or administrative actions which are contrary to both logic, and probable deductions from established facts).

<sup>7</sup> *J.E.*, Docket No. 18-0228 (issued August 8, 2019); *Daniel J. Perea, id.*

<sup>8</sup> *E.L.*, Docket No. 17-1445 (issued December 18, 2018); *L.W.*, 59 ECAB 471 (2008); *P.P.*, 58 ECAB 673 (2007).

<sup>9</sup> *See R.M.*, Docket No. 19-1319 (issued December 10, 2019); *Debra S. King*, 44 ECAB 203, 209 (1992); *Zane H. Cassell*, 32 ECAB 1537 (1981).

<sup>10</sup> *Id.*; *see also K.W.*, Docket No. 18-1523 (issued May 22, 2019); *Bertha L. Arnold*, 38 ECAB 282 (1986).

<sup>11</sup> *See T.A.*, Docket No. 19-1030 (issued November 22, 2019); *Cathy B. Millin*, 51 ECAB 331, 333 (2000).

<sup>12</sup> *Supra* note 9.

case. The DMA further noted that appellant had tricompartmental degenerative changes and that the symptoms of her meniscal condition were likely associated with her arthritis versus the accepted work injury. He opined that the right knee arthroscopy was not medically necessary to treat her accepted conditions, given that her symptoms were inconsistent with meniscal tear, but consistent with knee osteoarthritis. The DMA disagreed with Dr. Farhat's opinion, explaining that the requested surgery was not likely to improve appellant's pain or function and that knee arthroscopy was not a recommended treatment for individuals with symptomatic knee arthritis. As he provided a well-reasoned opinion explaining that appellant had not met the criteria for the proposed right knee arthroscopy, the DMA's opinion represents the weight of the medical evidence.<sup>13</sup> As such, the Board finds that OWCP did not abuse its discretion in denying authorization for the proposed right knee arthroscopy.<sup>14</sup>

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 OWCP did not abuse its discretion by denying authorization for right knee arthroscopy.

---

<sup>13</sup> See *A.S.*, Docket No. 19-0745 (issued October 10, 2019); *M.M.*, Docket No. 19-0491 (issued August 14, 2019); *N.M.*, Docket No. 18-1584 (issued March 15, 2019).

<sup>14</sup> See *supra* note 6.

**ORDER**

**IT IS HEREBY ORDERED THAT** the September 20, 2021 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: June 7, 2022  
Washington, DC

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

Janice B. Askin, Judge  
Employees' Compensation Appeals Board

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