

ISSUES

The issues are: (1) whether appellant has met his burden of proof to establish a right knee condition causally related to the accepted June 15, 2021 employment incident; and (2) whether OWCP properly denied his request for reconsideration of the merits of his claim, pursuant to 5 U.S.C. § 8128(a).

FACTUAL HISTORY

On August 4, 2021 appellant, then a 43-year-old border patrol agent, filed a traumatic injury claim (Form CA-1) alleging that on June 15, 2021 he sustained a right knee injury during physical training in an employing establishment exercise facility. He explained that he had gone to the gym on June 15, 2021 for a physical fitness test as he had been on light-duty work following a March 22, 2021 right ankle sprain. Appellant noted that he had no right knee symptoms following the March 22, 2021 injury while on light-duty work.

In an August 23, 2021 report, Dr. Harbinder S. Chadha, a Board-certified orthopedic surgeon, noted that on June 15, 2021 appellant experienced the onset of acute knee stiffness and pain during weight training at an employing establishment gym. He related appellant's symptoms of pain in the superior portion of the patella radiating to the medial side. On examination of the right lower extremity, Dr. Chadha noted tenderness to palpation along the superior portion of the patella into the quadriceps tendon, mild effusion, medial joint line tenderness, a questionable McMurray's sign, and 4+/5 quadriceps strength. He diagnosed chondromalacia of the right patella. Dr. Chadha opined that appellant's persistent right knee pain and weakness were consistent with a quadriceps strain or medial meniscal tear. He explained that the forces involved in weightlifting and exercising were competent to cause a muscle strain or meniscal tear. Dr. Chadha ordered an imaging study to assess persistent atrophy and prescribed physical therapy. He returned appellant to full-duty work. In a work capacity evaluation (Form OWCP-5c) Dr. Chadha indicated that appellant was able to perform his job without restrictions.

In a September 22, 2021 report, Dr. Chadha noted that a September 2, 2021 magnetic resonance imaging (MRI) scan of the right knee demonstrated a septated fluid signal intensity at the posterior medial aspect of the medial femoral condyle, likely indicating semimembranosus bursitis. He diagnosed patellar chondromalacia of the right knee with a semimembranosus strain/sprain. Dr. Chadha opined that it was "reasonable that while performing exercise maneuvers that require heavy weight the attachment of the muscle has been injured." He noted that the diagnosed knee conditions were employment related as appellant's physical conditioning program "resulted in a tear in the tendon due to heavy lifting." Dr. Chadha returned appellant to full-duty work. In an accompanying Form OWCP-5c, he indicated that appellant was able to perform his job without restrictions.

In a development letter dated October 6, 2021, OWCP informed appellant of the deficiencies of his claim. It advised him of the type of factual and medical evidence necessary and provided a questionnaire for his completion. OWCP afforded appellant 30 days to respond.

OWCP received an August 23, 2021 report by Dr. Chadha prescribing physical therapy for patellar chondromalacia of the right knee.

By decision dated December 8, 2021, OWCP denied appellant's traumatic injury claim, finding that he had not established a right knee condition causally related to the accepted June 15, 2021 employment incident. Consequently, it found that he had not met the requirements to establish an injury and/or a medical condition causally related to the accepted employment incident.

On February 5, 2022 appellant requested reconsideration. He described the weight training routine he had performed on the date of injury. Appellant also asserted that, during a January 12, 2022 discussion, Dr. Chadha asserted that he had provided all information OWCP had requested.

By decision dated February 9, 2022, OWCP denied appellant's request for reconsideration of the merits of his claim, pursuant to 5 U.S.C. § 8128(a).

LEGAL PRECEDENT -- ISSUE 1

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,⁴ that the claim was timely filed within the applicable time limitation of FECA, 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, place, and in the manner alleged.⁷ Second, the employee must submit sufficient evidence to establish that the employment incident caused a personal injury.⁸

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

³ *Supra* note 1; *D.M.*, Docket No. 18-1003 (issued July 16, 2020); *L.C.*, Docket No. 19-0503 (issued February 7, 2020); *A.A.*, Docket No. 18-0031 (issued April 5, 2018); *Eugene F. Butler*, 36 ECAB 393, 398 (1984).

⁴ *F.H.*, Docket No. 18-0869 (issued January 29, 2020); *J.P.*, Docket No. 19-0129 (issued December 13, 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 *D.S.*, Docket No. 17-1422 (issued November 9, 2017); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁸ *B.M.*, Docket No. 17-0796 (issued July 5, 2018); *John J. Carlone*, 41 ECAB 354 (1989).

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 -- ISSUE 1

The Board finds that this case is not in posture for decision.

In his August 23 and September 22, 2021 reports, Dr. Chadha recounted appellant's medical history as given, noted detailed findings on physical examination, and diagnosed right patellar chondromalacia with a semimembranosus strain/sprain. He opined that the accepted June 15, 2021 employment incident caused the diagnosed conditions as the forces involved in weightlifting were sufficient to tear the tendon at the attachment point.

The Board finds that Dr. Chadha provided an affirmative opinion on causal relationship, based upon a complete and accurate history of injury as related by appellant.¹⁰ While his reports are not sufficiently-rationalized to meet appellant's burden of proof to establish his claim, they are sufficient to require OWCP to further develop the medical evidence and the case record.¹¹

It is well established that, proceedings under FECA are not adversarial in nature and, while appellant has the burden of proof to establish entitlement to compensation, OWCP shares responsibility in the development of the evidence.¹² It has an obligation to see that justice is done.¹³

On remand OWCP shall refer appellant, a statement of accepted facts, and the medical evidence of record to a specialist in the appropriate field of medicine. Its referral physician shall provide a rationalized opinion as to whether the diagnosed conditions are causally related to the accepted employment incident. If the physician opines that the diagnosed conditions are not causally related, he or she must explain with rationale how or why his or her opinion differs from that of Dr. Chadha. Following this and other such further development as deemed necessary, OWCP shall issue a *de novo* decision.¹⁴

⁹ *D.R.*, Docket No. 22-0471 (issued June 27, 2022); *M.E.*, Docket No. 22-0091 (issued May 6, 2022); *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 *D.R.*, *id.*; *E.P.*, Docket No. 20-0898 (issued February 17, 2021); *S.C.*, Docket No. 19-0920 (issued September 25, 2019).

¹¹ *D.V.*, Docket No. 21-0383 (issued October 4, 2021); *K.S.*, Docket No. 19-0506 (issued July 23, 2019); *H.T.*, Docket No. 18-0979 (issued February 4, 2019); *D.W.*, Docket No. 17-1884 (issued November 8, 2018). *John J. Carlone*, 41 ECAB 354, 358-60 (1989).

¹² *D.R.*, *supra* note 9.

¹³ *Id.*; *John J. Carlone*, *supra* note 11.

¹⁴ In light of the Board's disposition of issue 1, issue 2 is rendered moot.

CONCLUSION

The Board finds that this case is not in posture for decision.

ORDER

IT IS HEREBY ORDERED THAT the December 8, 2021 and February 9, 2022 decisions of the Office of Workers' Compensation Programs are set aside and the case is remanded for further proceedings consistent with this decision of the Board.

Issued: November 15, 2022
Washington, DC

Patricia H. Fitzgerald, Deputy 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