



## ISSUE

The issue is whether appellant has met his burden of proof to establish a medical condition causally related to the accepted October 29, 2021 employment incident.

## FACTUAL HISTORY

On November 30, 2021 appellant, then a 33-year-old criminal investigator, filed a traumatic injury claim (Form CA-1) alleging that on October 29, 2021 he sustained a possible right shoulder rotator cuff tear during a physical fitness test while in the performance of duty. He explained that, during the push-up portion of the test, he experienced abnormal right shoulder weakness. In a second Form CA-1 also dated November 30, 2021, appellant alleged that he felt a pop in his left knee during the run portion of a physical fitness test on October 29, 2021 and sustained a possible torn ligament in the left knee. He did not stop work.

In support of his claim, appellant submitted a medical report dated January 13, 2022 by Dr. Kent S. Marangi, Board-certified in orthopedic surgery, who noted that appellant related complaints of pain in the right shoulder and left knee, which he attributed to the running and push-up portions of a physical fitness test on October 29, 2021. He performed a physical examination of the right shoulder, which revealed mild tenderness in the peri-acromial region, positive impingement signs, pain with apprehension testing, decreased pain with relocation, and an increased anterior glenohumeral glide. Dr. Marangi also examined appellant's left knee, which revealed mild effusion, crepitus, tenderness of the medial facets, mild pain with patellar compression, right lateral retinaculum with patella tilt, positive instability signs, and poor definition of the vastus medialis oblique (VMO). He obtained x-rays of the right shoulder, which revealed mild degeneration of the acromioclavicular (AC) joint and an os acromiale, and x-rays of the left knee, which revealed mild patella tilt and a Pellegrini-Stieda lesion. Dr. Marangi diagnosed generalized ligamentous laxity, right rotator cuff tendinitis, and lateral patellofemoral syndrome. He opined that appellant's shoulder and knee injuries were likely associated with underlying generalized ligamentous laxity, which caused his shoulder to subluxate while doing pushups and his patella to subluxate while jogging. Dr. Marangi further opined that his subpatellar knee pain was secondary to maltracking/malalignment of the patella due to anatomic alignment, muscular strength and balance, and soft tissue restraints. He recommended conservative treatment.

In a separate work status note of even date, Dr. Marangi recommended limited-duty work for appellant through March 1, 2022.

In a form report dated January 17, 2022, Dr. Marangi noted that appellant related complaints of pain in the lateral and posterior right shoulder and anterior left knee. He reported his physical examination findings and diagnosed right shoulder rotator cuff tendinitis, right shoulder instability, and left knee patellofemoral syndrome. Dr. Marangi checked a box marked "Yes" indicating that his findings and diagnoses were consistent with appellant's account of his injury.

In a duty status report (Form CA-17) dated February 10, 2022, Dr. Marangi diagnosed left patellofemoral syndrome, right rotator cuff tendinitis, and generalized ligament laxity. He again recommended limited-duty work.

In a March 9, 2022 development letter, OWCP informed appellant of the deficiencies of his claim. It advised him of the type of factual and medical evidence needed and provided a questionnaire for his completion. In a separate development letter of even date, OWCP requested additional information from the employing establishment. It afforded both parties 30 days to respond.

In an undated response to OWCP's development questionnaire, T.P., an employing establishment special agent, indicated that on October 26, 2021 appellant was required to participate in a physical fitness examination, but that it was unknown as to whether he had been injured during regular working hours as he had not reported an injury during the training.

By decision dated April 11, 2022, OWCP denied appellant's claim, finding that the medical evidence of record was insufficient to establish that his right shoulder and left knee conditions were causally related to the accepted October 29, 2021 employment incident.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA has the burden of proof to establish the essential elements of his or her claim, including the fact that the individual is an employee of the United States within the meaning of FECA,<sup>3</sup> that the claim was timely filed within the applicable time limitation period 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.<sup>4</sup> 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.<sup>5</sup>

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. The first component is that 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. The second component is whether the employment incident caused a personal injury and can be established only by medical evidence.<sup>6</sup>

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<sup>3</sup> *K.R.*, Docket No. 20-0995 (issued January 29, 2021); *A.W.*, Docket No. 19-0327 (issued July 19, 2019); *S.B.*, Docket No. 17-1779 (issued February 7, 2018); *J.P.*, 59 ECAB 178 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

<sup>4</sup> *J.M.*, Docket No. 17-0284 (issued February 7, 2018); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

<sup>5</sup> *J.B.*, Docket No. 20-1566 (issued August 31, 2021); *K.M.*, Docket No. 15-1660 (issued September 16, 2016); *L.M.*, Docket No. 13-1402 (issued February 7, 2014); *Delores C. Ellyett*, 41 ECAB 992 (1990).

<sup>6</sup> *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).

The medical evidence required to establish causal relationship between a claimed specific condition and an employment incident is rationalized medical opinion evidence.<sup>7</sup> The opinion of the physician must be based on a complete factual and medical background of the employee, 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 incident identified by the employee.<sup>8</sup>

### ANALYSIS

The Board finds that appellant has not met his burden of proof to establish a medical condition causally related to the accepted October 29, 2021 employment incident.

Dr. Marangi, in his January 13, 2022 report, indicated that appellant's shoulder and patella likely subluxated during his physical fitness testing. However, he did not provide a rationalized medical opinion relating a specific diagnosed condition to the October 29, 2021 employment incident. Rather, Dr. Marangi opined that the causes of the subluxations and appellant's patellar pain were generalized underlying ligament laxity and maltracking/malalignment of the patella due to anatomic alignment, muscular strength and balance, and soft tissue restraints. The Board has held that a report is of limited probative value regarding causal relationship if it does not contain medical rationale explaining how an employment activity caused or aggravated a medical condition.<sup>9</sup> Therefore, this report is insufficient to establish appellant's traumatic injury claim.

In a January 17, 2022 form report, Dr. Marangi diagnosed right shoulder rotator cuff tendinitis, right shoulder instability, and left knee patellofemoral syndrome and checked a box marked "Yes" indicating that his findings and diagnoses were consistent with appellant's account of his injury. The Board has held that an opinion on causal relationship with an affirmative check mark, without more by way of medical rationale, is of diminished probative value.<sup>10</sup> Thus, this evidence is insufficient to establish causal relationship.

The remaining reports of Dr. Marangi reiterated his diagnoses and recommended work restrictions but did not contain an opinion as to the cause of the diagnosed conditions. The Board has held that a medical report that does not offer an opinion on causal relationship is of no probative value and, thus, is insufficient to establish the claim.<sup>11</sup> Therefore, these reports are insufficient to meet appellant's burden of proof.

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<sup>7</sup> *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).

<sup>8</sup> *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).

<sup>9</sup> *Y.D.*, Docket No. 16-1896 (issued February 10, 2017).

<sup>10</sup> *See R.H.*, Docket No. 20-1684 (issued August 27, 2021); *C.S.*, Docket No. 18-1633 (issued December 30, 2019); *D.S.*, Docket No. 17-1566 (issued December 31, 2018); *Gary J. Watling*, 52 ECAB 278 (2001).

<sup>11</sup> *T.D.*, Docket No. 19-1779 (issued March 9, 2021); *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018); *Charles H. Tomaszewski*, 39 ECAB 461 (1988).

As appellant has not submitted rationalized medical evidence to establish a medical condition causally related to the accepted October 29, 2021 employment incident, 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 a medical condition causally related to the accepted October 29, 2021 employment incident.

**ORDER**

**IT IS HEREBY ORDERED THAT** the April 11, 2022 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: November 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