

descending stairs, mounting and dismounting his postal vehicle while picking up parcels and mail tubs weighing 70 pounds or more. He noted that he first became aware of his claimed injury on August 3, 2020 and realized its relation to his federal employment on September 9, 2020. On the reverse side of the claim form, appellant's supervisor, M.M., indicated that appellant did not inform management of any on-the-job injury on August 3, 2020 but instead first reported his condition on September 23, 2020. Appellant stopped work on September 8, 2020.

In support of his claim, appellant submitted a September 7, 2020 work excuse note bearing an illegible signature indicating that he should be off work for one week.

In a September 9, 2020 work excuse note, Dr. Donald F. Garver, a Board-certified orthopedic surgeon, indicated that appellant could return to full-duty work on September 14, 2020. On September 16, 2020 he extended the out of work period until October 19, 2020.

In a development letter dated September 24, 2020, OWCP informed appellant of the deficiencies of his claim. It explained the type of additional evidence required and provided a questionnaire for his completion. OWCP afforded appellant 30 days to respond.

Appellant subsequently submitted a September 9, 2020 medical note, in which Dr. Garver indicated that appellant was having trouble with his knees, with more pain on the left than the right. Dr. Garver noted that, x-rays demonstrated that appellant's right knee looked worse than the left, both knees were down to the bone medially, there was some fluid on the left, but the bump on the inside was appellant's vastus medialis obliques, and he had bone-on-bone on the medial side of his knees. He administered an intra-articular injection to appellant's left knee. Dr. Garver indicated concern that appellant's knees would wear out quickly and noted that appellant might soon be in need of a total knee replacement or unicompartmental replacement. He opined that, as appellant had worn out both knees and had no family history, appellant's condition was probably related to his work activities over the past 40 years, including carrying mail. Dr. Garver held appellant off work until September 13, 2021. He saw appellant for a follow-up appointment on September 16, 2020 and indicated that appellant underwent an ultrasound, which showed that he still had fluid in his knee. Dr. Garver drew out fluid from the knee and administered an intra-articular injection. He held appellant off work until October 19, 2021. Dr. Garver noted that appellant "has worked 43 years and I think [appellant's] knees are just worn down."

In an October 1, 2020 form report, Dr. Garver indicated that he had treated appellant for an ongoing, chronic condition that rendered him unable to perform his job functions such as standing, walking, bending, twisting, or squatting for any period of time. He noted that appellant had left knee pain and swelling. Dr. Garver advised that appellant was disabled from work from approximately September 9 through October 19, 2020. He additionally indicated that appellant would need time for follow-up treatment and that his condition could cause flare-ups of severe pain making it hard to stand and walk, which could necessitate absence from work.

By decision dated November 3, 2020, OWCP denied appellant's traumatic injury claim, finding that the medical evidence submitted was insufficient to establish causal relationship between his diagnosed condition and the accepted factors of his federal employment.

On July 22, 2021 appellant requested reconsideration. He asserted that a July 7, 2021 report of Dr. Garver provided “unequivocal evidence” that his injury occurred in the performance of duty on August 3, 2020.

In his July 7, 2021 report, Dr. Garver explained that he had treated appellant for several years prior and that he had undergone a left total knee arthroplasty on February 26, 2021. He noted that appellant had struggled with degenerative arthritis of both knees for some time and underwent a meniscectomy over 20 years ago. Since the meniscectomy, appellant had been treated conservatively. However, Dr. Garver opined that appellant’s activity level as a mail carrier led to excessive deterioration of his knees, leading to his present condition of needing left knee replacement, as well his right knee being in varus and showing extensive wear on the medial joint space. Imaging showed that appellant was down to the bone on the medial side of his right knee, which would require future surgery. Dr. Garver explained that appellant had lost articular cartilage on multiple surfaces of both knees. He diagnosed bilateral knee osteoarthritis and opined, based on his over 40 years of experience as an orthopedic surgeon, that appellant’s prolonged walking, excessive steps, and carrying excessive weights at times “certainly precipitated and likely exacerbated the symptoms of [appellant’s] present condition.” Dr. Garver further opined that appellant’s condition “is absolutely the result of the excessive wear and tear” of appellant’s 43 years as a mail carrier. He added that, in people, such as appellant, with no genetic history of degenerative arthritis, the occurrence of the condition is a result of overactivity and the number of steps walked during their lifetime.

By decision dated September 1, 2021, OWCP denied modification of the November 3, 2020 decision.

Appellant requested reconsideration. He asserted that a November 4, 2021 report of Dr. Garver provided “unequivocal evidence” that his injury occurred in the performance of duty on August 3, 2020.

In his November 4, 2021 report, Dr. Garver reiterated that appellant’s bilateral knee pain was caused by severe arthritic change in both knees and that appellant had no family history of arthritis. He asserted that, given the lack of family history, “there must be some other convening circumstances to cause such a radical change in both knees.” Dr. Garver described appellant’s employment duties during appellant’s 43 years as a letter carrier, including carrying up to 30 pounds of mail in his satchel, lifting packages up to 70 pounds, walking on deteriorating and uneven sidewalks, and going up and down several hundred steps each day in all types of weather. He stated that, while he could not opine whether appellant’s federal employment caused his bilateral knee osteoarthritis, in his professional opinion to a reasonable degree of medical certainty, “the conditions of [appellant’s] employment did in many ways exacerbate the osteoarthritis to the state that it is today.”

By decision dated February 17, 2022, OWCP denied modification of the September 1, 2021 decision.

LEGAL PRECEDENT

An employee seeking benefits under FECA² 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, that the claim was timely filed within the applicable time limitation period of FECA,³ 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.⁴ 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.⁵

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; (2) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; and (3) medical evidence establishing that the diagnosed condition is causally related to the identified employment factors.⁶

Causal relationship is a medical question that requires rationalized medical opinion evidence to resolve the issue.⁷ A physician's opinion on whether there is causal relationship between the diagnosed condition and the implicated employment factor(s) must be based on a complete factual and medical background.⁸ Additionally, the physician's opinion must be expressed in terms of a reasonable degree of medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and appellant's specific employment factor(s).⁹

In any case where a preexisting condition involving the same part of the body is present and the issue of causal relationship, therefore, involves aggravation, acceleration, or precipitation,

² *Id.*

³ *S.B.*, Docket No. 17-1779 (issued February 7, 2018); *J.P.*, 59 ECAB 178 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

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

⁵ *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).

⁶ *R.G.*, Docket No. 19-0233 (issued July 16, 2019). *See also Roy L. Humphrey*, 57 ECAB 238, 241 (2005); *Ruby I. Fish*, 46 ECAB 276, 279 (1994); *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁷ *T.H.*, 59 ECAB 388, 393 (2008); *Robert G. Morris*, 48 ECAB 238 (1996).

⁸ *M.V.*, Docket No. 18-0884 (issued December 28, 2018).

⁹ *Id.*; *Victor J. Woodhams*, *supra* note 6.

the physician must provide a rationalized medical opinion that differentiates between the effects of the work-related injury or disease and the preexisting condition.¹⁰

ANALYSIS

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

In a report dated July 7, 2021, Dr. Garver related appellant's history of injury and treatment and diagnosed bilateral knee osteoarthritis. He explained that appellant's federal employment required prolonged walking, excessive steps, and carrying excessive weights at times, which led to excessive deterioration of his knees and loss of articular cartilage on multiple surfaces in both knees. Dr. Garver opined that appellant's condition "is absolutely the result of the excessive wear and tear" of appellant's 43 years as a mail carrier. He added that, in people such as appellant, with no genetic history of degenerative arthritis, the occurrence of the condition is a result of overactivity, and the number of steps walked during their lifetime.

In his November 4, 2021 report, Dr. Garver further described appellant's employment duties during his 43 years as a letter carrier, including carrying up to 30 pounds of mail in his satchel, lifting packages up to 70 pounds, walking on deteriorating and uneven sidewalks, and ascending and descending several hundred steps each day in all types of weather. He clarified that, in his professional opinion to a reasonable degree of medical certainty, "the conditions of [appellant's] employment did in many ways exacerbate the osteoarthritis to the state that it is today."

The Board finds that Dr. Garver's July 7 and November 4, 2021 reports are sufficient to require further development of the medical evidence. Dr. Garver demonstrated a comprehensive understanding of the medical record and case history. His reports explain that appellant's employment duties over 43 years, including prolonged walking, excessive steps, and carrying excessive weight exacerbated his diagnosed condition.

The Board has long held that it is unnecessary that the evidence of record in a case be so conclusive as to suggest causal connection beyond all possible doubt.¹¹ Rather, the evidence required is only that necessary to convince the adjudicator that the conclusion drawn is rational, sound, and logical.¹² Accordingly, the Board finds that Dr. Garver's medical opinion is sufficient to require further development of appellant's claim.¹³

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

¹⁰ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3e (January 2013). *M.B.*, Docket No. 20-1275 (issued January 29, 2021); *see R.D.*, Docket No. 18-1551 (issued March 1, 2019).

¹¹ *See D.M.*, Docket No. 21-0908 (issued March 4, 2022).

¹² *C.S.*, Docket No. 19-1809 (issued July 29, 2020); *W.M.*, Docket No. 17-1244 (issued November 7, 2017).

¹³ *See J.H.*, Docket No. 18-1637 (issued January 29, 2020); *D.S.*, Docket No. 17-1359 (issued May 3, 2019); *William J. Cantrell*, 34 ECAB 1223 (1983).

responsibility in the development of the evidence.¹⁴ OWCP has an obligation to see that justice is done.¹⁵

On remand, OWCP shall refer appellant, along with the case record and a statement of accepted facts, to a specialist in the appropriate field of medicine for a reasoned opinion regarding whether appellant sustained a medical condition causally related to the accepted employment factors. If the second opinion physician disagrees with the opinion of Dr. Garver, he or she must provide a fully-rationalized explanation of why the accepted employment factors were insufficient to have caused or aggravated appellant's medical condition. After this and other such further development of the case record as OWCP deems necessary, it shall issue a *de novo* decision.

CONCLUSION

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

ORDER

IT IS HEREBY ORDERED THAT the February 17, 2022 decision of the Office of Workers' Compensation Programs is set aside and the case is remanded for further proceedings consistent with this decision of the Board.

Issued: October 26, 2022
Washington, DC

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

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

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

¹⁴ *Id.*; *see also A.P.*, Docket No. 17-0813 (issued January 3, 2018); *Jimmy A. Hammons*, 51 ECAB 219, 223 (1999).

¹⁵ *See B.C.*, Docket No. 15-1853 (issued January 19, 2016); *E.J.*, Docket No. 09-1481 (issued February 19, 2010); *John J. Carlone*, 41 ECAB 354 (1989).