United States Department of Labor
Employees' Compensation Appeals Board

J.M., Appellant	)	
and	)	**Docket No. 22-0919**
	)	**Issued: October 18, 2022**
U.S. POSTAL SERVICE, POST OFFICE, Nashville, TN, Employer	)	

Appearances:
Alan J. Shapiro, Esq., for the appellant[1]
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Chief Judge
PATRICIA H. FITZGERALD, Deputy Chief Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On May 31, 2022 appellant, through counsel, filed a timely appeal from a March 11, 2022 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act[2] (FECA) and 20 CFR §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

[1] In all cases in which a representative has been authorized in a matter before the Board, no claim for a fee for legal or other service performed on appeal before the Board is valid unless approved by the Board. 20 C.F.R. § 501.9(e). No contract for a stipulated fee or on a contingent fee basis will be approved by the Board. *Id*. An attorney or representative's collection of a fee without the Board's approval may constitute a misdemeanor, subject to fine or imprisonment for up to one year or both. *Id*.; *see also* 18 U.S.C. § 292. Demands for payment of fees to a representative, prior to approval by the Board, may be reported to appropriate authorities for investigation.

[2] 5 U.S.C. § 8101 *et seq*.

ISSUE

The issue is whether appellant has met his burden of proof to establish a left knee condition causally related to the accepted April 15, 2021 employment incident.

FACTUAL HISTORY

On April 21, 2021 appellant, then a 44-year-old maintenance mechanic, filed a traumatic injury claim (Form CA-1) alleging that on April 15, 2021 he heard a pop and injured his left knee when walking between work buildings while in the performance of duty. He stopped work on April 16, 2021 and returned to full-time modified duty on June 30, 2021.

In a note dated April 16, 2021, a health care provider with an illegible signature indicated that appellant was seen in the emergency room on that date. The provider excused appellant from work through April 19, 2021.

In a statement dated April 20, 2021, appellant asserted that he was walking on April 15, 2021 at approximately 10:50 p.m. when he felt that something in his knee had "snapped." He noted that he could not walk or put any weight on his leg. Thereafter, appellant presented to the emergency room and while there, notified the supervisor on duty of his injury. He remained off work until April 20, 2021.

An authorization for examination and/or treatment (Form CA-16) completed on April 21, 2021 by Supervisor J.N., noted that appellant was injured on April 15, 2021 and described the injury as a pop in the knee while walking.

In an April 23, 2021 statement, H.B., a coworker, noted that he observed appellant on the night of April 15, 2021 as he was walking in his direction. He indicated that appellant suddenly stopped, grabbed his leg and related that his knee had popped, causing him pain.

On May 7, 2021 appellant sought treatment with Dr. David West, a Board-certified orthopedic surgeon, for complaints of sudden onset left knee pain. Dr. West noted that on physical examination appellant had decreased range of motion, pain with movement and an inability to complete any activities without pain. He opined that the mechanism of injury "includes work related." Dr. West noted that a left knee x-ray was performed, diagnosed acute pain of the left knee, and administered a steroid injection.

In a development letter dated June 7, 2021, OWCP informed appellant of the deficiencies of his claim. It advised him of the type of factual and medical evidence necessary to establish his claim and provided a questionnaire for his completion. In a separate development letter of even date, OWCP requested that the employing establishment provide additional information regarding appellant's alleged injury, including comments from a knowledgeable supervisor regarding the

accuracy of his allegations and witness statements from employees with additional information. It afforded both parties 30 days to submit the requested evidence.

On May 16, 2021 the employing establishment offered appellant a limited-duty assignment, which she accepted on May 19, 2021.

In an undated response to OWCP's development questionnaire, J.N., asserted that appellant failed to notify management of his alleged injury. He noted that appellant had driven himself to the emergency room and subsequently sent J.N. a text messaging indicating that he had been experiencing knee pain for days prior. J.N. further related that appellant was on premises at the time of his alleged injury.

In a June 1, 2021 after visit summary, Dr. West reported that appellant found minimal relief from the May 7, 2021 cortisone injections. He noted that a left knee magnetic resonance imaging (MRI) scan revealed a displaced medial meniscus tear with root tear displacement. On physical examination appellant had a positive medial McMurray test, effusion, locking of the knee and reduced range of motion with pain. Dr. West recommended a left knee arthroscopy with medical meniscectomy and continued work restrictions including no bending and squatting. In a work release note of even date, he released appellant to work as of June 2, 2021 and provided work restrictions pending surgery. On June 23, 2021 Dr. West reiterated his work restrictions.

By decision dated July 12, 2021, OWCP denied appellant's traumatic injury claim, finding that the medical evidence of record was insufficient to establish causal relationship between his diagnosed condition and the accepted April 15, 2021 employment incident.

On December 12, 2021 appellant requested reconsideration of OWCP's July 12, 2021 decision. In support of his request, he submitted a November 16, 2021 report from Dr. West, who noted that appellant was under his care since sustaining a left knee injury at work on April 15, 2021. Dr. West related that an MRI scan revealed a medial meniscus tear and requested authorization for surgical repair. He concluded that his examination, diagnostic imaging and appellant's reports of a work injury support his diagnosis and proposed treatment plan.

By decision dated March 11, 2022, OWCP denied modification of its July 12, 2021 decision.

LEGAL PRECEDENT

An employee seeking benefits under FECA[3] has the burden of establishing 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 filed within the applicable time limitation of FECA, that an injury was sustained in the performance of duty as alleged and that any disability and/or specific condition for which compensation is claimed is causally related to the employment injury.[4]

[3] *Supra* note 2.

[4] *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).

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 determine whether an employee sustained an injury in the performance of duty, OWCP begins with an analysis of whether fact of injury has been established. Generally, fact of injury consists of two components, which must be considered in conjunction with one another. The first component to be established is that the employee experienced the employment incident, which is alleged to have occurred. The second component of fact of injury is whether the employment incident caused a personal injury and generally can be established only by medical evidence.[6]

To establish causal relationship between the condition, as well as any attendant disability, claimed and the employment event or incident, the employee must submit rationalized medical opinion evidence, based on a complete factual and medical background, supporting such a causal relationship.[7] Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the claimant, 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 factors identified by the claimant.[8] The weight of medical evidence is determined by its reliability, its probative value, its convincing quality, the care of analysis manifested and the medical rationale expressed in support of the physician's opinion.[9]

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish a left knee condition causally related to the accepted April 15, 2021 employment incident.

In support of his claim, appellant submitted a November 16, 2021 report from Dr. West who noted that appellant had been under his care for a left knee condition related to an April 15, 2021 work injury. Dr. West diagnosed a medial meniscus tear based on his MRI findings. While his opinion is generally supportive of causal relationship, he did not explain with rationale as to how appellant could have developed a left knee condition due to the accepted April 15, 2021 employment incident. The Board has held that a report is of limited probative value regarding causal relationship if it does not contain medical rationale explaining how a given medical condition is related to the

[5] *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).

[6] *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).

[7] *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).

[8] *A.S.*, Docket No. 19-1955 (issued April 9, 2020); *Leslie C. Moore*, 52 ECAB 132 (2000).

[9] *Franklin D. Haislah*, 52 ECAB 457 (2001); *Jimmie H. Duckett*, 52 ECAB 332 (2001) (medical reports not containing rationale on causal relationship are entitled to little probative value).

accepted employment incident.[10] Thus, Dr. West's November 16, 2021 report is insufficient to establish appellant's claim.

Likewise, in a May 7, 2021 note, Dr. West diagnosed acute left knee pain and opined that the mechanism of injury was work related. However, he did not provide any medical rationale in support of his conclusion that appellant's condition was causally related to the accepted employment incident.[11] Moreover, the Board has held that pain is a description of a symptom and not a clear medical diagnosis.[12] A medical report lacking a firm diagnosis is of no probative value.[13] Therefore, this report is also insufficient to establish a diagnosed medical condition causally related to the accepted employment incident.

In notes dated June 1 and 23, 2021, Dr. West noted MRI scan findings of displaced medial meniscus tear with root tear displacement of the left knee and provided physical examination findings and work restrictions. However, he did not offer an opinion on causal relationship. The Board has held that medical evidence that does not offer an opinion on causal relationship is of no probative value.[14] As such, these notes are insufficient to establish appellant's claim.

The remaining evidence of record includes a work excuse note dated April 16, 2021 with an illegible signature.[15] The Board has held that reports that are unsigned or bear an illegible signature lack proper identification and cannot be considered probative medical evidence as the author cannot be identified as a physician.[16] Therefore, this evidence is also insufficient to meet appellant's burden of proof.

[10] *B.H.*, Docket No. 20-077 (issued October 21, 2020); *see S.Y.*, Docket No. 20-0470 (issued July 15, 2020); *T.J.*, Docket No. 19-1339 (issued March 4, 2020); *Y.D.*, Docket No. 16-1896 (issued February 10, 2017) (finding that a report is of limited probative value regarding causal relationship if it does not contain medical rationale describing the relation between work factors and a diagnosed condition/disability).

[11] *Id*.

[12] *C.S.*, Docket No. 20-1354 (issued January 29, 2021); *D.R.*, Docket No. 18-1408 (issued March 1, 2019); *D.A.*, Docket No. 18-0783 (issued November 8, 2018).

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

[14] *W.G.*, Docket No. 20-0439 (issued July 13, 2020); *R.L.*, Docket No. 20-0284 (issued June 30, 2020); *P.C.*, Docket No. 18-0167 (issued May 7, 2019).

[15] *See L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

[16] *L.B.* Docket No. 21-0353 (issued May 23, 2022); *T.D.*, Docket No. 20-0835 (issued February 2, 2021); *R.C.*, Docket No. 19-0376 (issued July 15, 2019); *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *Merton J. Sills*, 39 ECAB 572, 575 (1988).

As the medical evidence of record is insufficient to establish causal relationship between appellant's diagnosed left knee condition and the accepted April 15, 2021 employment incident, the Board finds that he has not met his burden of proof.[17]

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 left knee condition causally related to the accepted April 15, 2021 employment incident.

ORDER

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

Issued: October 18, 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

[17] The Board notes that the case record contains a Form CA-16 report completed on April 28, 2021. A properly completed Form CA-16 form authorization may constitute a contract for payment of medical expenses to a medical facility or physician, when properly executed. The form creates a contractual obligation, which does not involve the employee directly, to pay for the cost of the examination or treatment regardless of the action taken on the claim. The period for which treatment is authorized by a Form CA-16 is limited to 60 days from the date of issuance, unless terminated earlier by OWCP. 20 C.F.R. § 10.300(c); *P.R.*, Docket No. 18-0737 (issued November 2, 2018); *N.M.*, Docket No. 17-1655 (issued January 24, 2018); *Tracy P. Spillane*, 54 ECAB 608 (2003).