United States Department of Labor
Employees' Compensation Appeals Board

G.C., Appellant	)	
and	)	**Docket No. 22-0959**
	)	**Issued: September 27, 2022**
DEPARTMENT OF THE ARMY, U.S. ARMY CORPS OF ENGINEERS, NASHVILLE OPERATIONS DIVISION, Nashville, TN, Employer	)	

Appearances:
Appellant, pro se,
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Chief Judge
JANICE B. ASKIN, Judge
JAMES D. McGINLEY, Alternate Judge

JURISDICTION

On June 7, 2022 appellant filed a timely appeal from a May 9, 2022 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act[1] (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.[2]

ISSUE

The issue is whether appellant has met his burden of proof to establish a right knee condition causally related to the accepted January 25, 2022 employment incident.

[1] 5 U.S.C. § 8101 *et seq*.

[2] The Board notes that, following the May 9, 2022, decision, appellant submitted additional evidence to OWCP. However, the Board's *Rules of Procedure* provides: "The Board's review of a case is limited to the evidence in the case record that was before OWCP at the time of its final decision. Evidence not before OWCP will not be considered.

FACTUAL HISTORY

On January 26, 2022 appellant, then a 53-year-old lock and dam equipment mechanic leader, filed a traumatic injury claim (Form CA-1) alleging that on January 25, 2022 he injured his right knee while stepping down from a forklift while in the performance of duty. He explained that he felt a pop in his knee, followed immediately by a burning sensation and swelling. Appellant did not stop work.

In support of his claim, appellant submitted a medical report dated January 25, 2022 by Dr. Jonathan Shaver, a Board-certified orthopedic surgeon, who diagnosed a right knee sprain and meniscus tear and opined that the injury was work related by marking a corresponding selection on a form report. He recommended light-duty work with restrictions. A report of x-ray of the right knee of even date was read as normal.

In a medical report dated February 8, 2022, Dr. W. David Hovis, a Board-certified orthopedic surgeon, noted that appellant presented for a workers' compensation injury and related complaints of right knee pain. He noted that appellant attributed his pain to stepping off a forklift at work on January 25, 2022. Appellant described the pain as a constant lateral clicking and burning that is made worse upon kneeling, sitting, bending, walking, and standing. Dr. Hovis performed a physical examination, with x-rays of the right knee, and documented a possible lateral meniscal tear with the possibility of chondromalacia or a concomitant meniscus tear. A magnetic resonance imaging (MRI) scan of the right knee was ordered for confirmation. He was released to light-duty work with restrictions.

In an MRI scan report of the right knee, dated February 10, 2022, Dr. Wayne Eberenz, a Board-certified diagnostic radiologist, provided an impression of a focal grade two chondromalacia patella due to a borderline lateral insertion of the patella tendon on the tibial tubercle with the presence of trace joint effusion.

In a follow-up medical report dated February 10, 2022, Dr. Hovis documented appellant's ongoing right knee complaints of mild-to-moderate continuous right-side pain with stiffness, which worsened with climbing. Dr. Hovis provided physical examination findings which revealed marked lateral joint line tenderness and positive McMurray's and Apley's tests on the lateral side. He reviewed the MRI scan report of even date and ruled out lateral meniscus tear and diagnosed focal, grade two chondromalacia patella. Dr. Hovis provided light-duty work restrictions, administered a steroid injection and recommended physical therapy.

In an initial evaluation report dated February 14, 2022, Laura McCallister, a physical therapist, indicated that appellant was employed by the Army Corps of Engineers, as an equipment mechanic, which required heavy work activities. She attributed his pain to factors of his employment, noting the symptoms began following a traumatic incident on January 25, 2022 when

appellant stepped down from a forklift and felt a pop in his lateral knee, accompanied by burning sensation and swelling in his distal thigh. Ms. McCallister recommended therapeutic treatments.

OWCP subsequently received physical therapy notes from Ms. McCallister dated February 16 through March 22, 2022.

In an April 21, 2022 development letter, OWCP informed appellant of the deficiencies of his claim.[3] It advised him of the type of factual and medical evidence needed to establish his claim. OWCP afforded appellant 30 days to submit the necessary evidence.

OWCP thereafter received a March 29, 2022 report by Dr. Hovis, who noted that appellant's right knee symptoms had improved since his last visit and that he had reached maximum medical improvement. In work restrictions of even date, he released appellant to full duty.

By decision dated May 9, 2022, OWCP denied appellant's traumatic injury claim, finding the medical evidence of record was insufficient to establish a causal relationship between his diagnosed right knee condition and the accepted January 25, 2022 employment incident.

LEGAL PRECEDENT

An employee seeking benefits under FECA[4] 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.[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 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

[3] OWCP initially issued a development letter dated March 14, 2022, which was returned to sender as it had the wrong address. It reissued the decision on April 21, 2022.

[4] *Id*.

[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).

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.[7]

To establish a 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.[8] 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 incident identified by the claimant.[9] 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.[10]

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish a right knee condition causally related to the accepted January 25, 2022 employment incident.

In his medical report dated January 25, 2022, Dr. Shaver diagnosed a right knee sprain and meniscus tear, and opined that the injury was work related by marking a corresponding selection on a form report. The Board has held that a physician's opinion on causal relationship, which only consists of affirmatively marking a form, without further explanation or rationale, is of diminished probative value.[11] Without an additional explanation of how stepping down from a forklift caused or contributed to appellant's injuries, Dr. Shaver's January 25, 2022 medical report is of limited probative value. Thus, this evidence is insufficient to establish causal relationship.

In his February 8, 2022 report, Dr. Hovis noted that appellant presented with complaints of right knee pain and related that he sustained a right knee injury from stepping off a forklift at work on January 25, 2022. He documented a possible lateral meniscal tear with the possibility of chondromalacia or a concomitant meniscus tear. However, such generalized statements do not establish causal relationship because they merely repeat appellant's allegation and are unsupported by medical rationale explaining how the accepted employment incident caused a diagnosed

[7] *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).

[8] *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).

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

[10] *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).

[11] *See J.R.*, Docket No. 18-1679 (issued May 6, 2019); *M.C.*, Docket No. 18-0361 (issued August 15, 2018); *Calvin E. King, Jr.*, 51 ECAB 394 (2000); *see also Frederick E. Howard, Jr.*, 41 ECAB 843 (1990).

condition.[12] The Board has held that a medical opinion is of limited probative value regarding causal relationship if it does not contain medical rationale explaining how an employment activity could have caused or aggravated a medical condition.[13] Thus, Dr. Hovis' February 8, 2022 report is insufficient to establish appellant's claim.

In his subsequent reports dated February 10 and March 29, 2022, Dr. Hovis diagnosed focal, grade two chondromalacia patella, noted examination findings, appellant's treatment history, and provided work restrictions. However, he did not provide an opinion on the cause of appellant's condition. The Board has held that medical evidence that does not offer an opinion on causal relationship is of no probative value.[14] Therefore, Dr. Hovis' remaining reports are insufficient to meet appellant's burden of proof.

OWCP also received diagnostic testing reports, which included a January 25, 2022 x-ray report, and a February 10, 2022 MRI scan of the right knee. The Board has held that diagnostic tests, standing alone, lack probative value on the issue of causal relationship as they do not provide an opinion on causal relationship.[15]

The remaining evidence of record includes a February 14, 2022 initial evaluation report and physical therapy notes dated February 16 through March 22, 2022 from Ms. McCallister, a physical therapist. The Board has held that medical reports signed solely by a physical therapist are of no probative value as they are not considered physicians as defined under FECA and, therefore, are not competent to provide a medical opinion.[16]

As appellant has not submitted rationalized medical evidence establishing causal relationship between his diagnosed right knee condition and the accepted January 25, 2022 employment incident, the Board finds that he has not met his burden of proof to establish his claim.

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.

[12] *See V.L.*, Docket No. 20-0884 (issued February 12, 2021); *J.B.*, Docket No. 18-1006 (issued May 3, 2019).

[13] *See V.D.*, Docket No. 20-0884 (issued February 12, 2021); *Y.D.*, Docket No. 16-1896 (issued February 10, 2017).

[14] *D.C.*, Docket No. 19-1093 (issued June 25, 2020); *see L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

[15] *See S.O.*, Docket No. 21-0332 (issued September 24, 2021); *W.M.*, Docket No. 19-1853 (issued May 13, 2020); *L.F.*, Docket No. 19-1905 (issued April 10, 2020).

[16] *See David P. Sawchuk*, 57 ECAB 316, 320 n.11 (2006) (lay individuals such as physician assistants, nurses, and physical therapists are not competent to render a medical opinion under FECA); 5 U.S.C. § 8101(2) (this subsection defines a physician as surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, and osteopathic practitioners within the scope of their practice as defined by state law).

CONCLUSION

The Board finds that appellant has not met his burden of proof to establish a right knee condition causally related to the accepted January 25, 2022 employment incident.

ORDER

IT IS HEREBY ORDERED THAT the May 9, 2022 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: September 27, 2022
Washington, DC

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

James D. McGinley, Alternate Judge
Employees' Compensation Appeals Board