

FACTUAL HISTORY

On November 23, 2021 appellant, then a 45-year-old police officer, filed a traumatic injury claim (Form CA-1) alleging that on that date he injured his left knee and left foot when he participated in an agility run during a physical fitness examination while in the performance of duty. OWCP accepted his claim for left knee sprain. It paid appellant wage-loss compensation for intermittent periods of disability on the supplemental rolls beginning January 8, 2022.

OWCP received medical evidence from Dr. Daniel O. Mongiano, an attending family practitioner, including a February 11, 2022 report. Dr. Mongiano noted a history of the accepted November 23, 2021 employment injury and appellant's resultant medical treatment. He reported his findings on examination of the left knee and left foot. Dr. Mongiano diagnosed collateral ligaments sprain, anterior cruciate ligament (ACL) sprain, chondromalacia of the patella, osteoarthritis, and meniscal tear of the left knee. He also diagnosed left foot pain. Dr. Mongiano opined that appellant sustained a work-related left knee injury due to the required ability test, and advised that appellant was temporarily totally disabled. He noted that appellant was predisposed to be at a higher risk for injury because appellant had a previous left knee injury in 2016 for which he underwent ACL repair and reinjured his knee in 2017.

OWCP, by development letter dated March 14, 2022, informed appellant of the deficiencies of his claim. It advised him of the type of medical evidence necessary to establish his claim. OWCP afforded appellant 30 days to submit the necessary evidence.

OWCP subsequently received hospital records which indicated that appellant was treated in the emergency department on November 30, 2021 by Dr. Thomas J. Lee, a physician specializing in emergency medicine for complaints of left knee and left foot pain. Appellant related that he injured his left knee and ankle that resulted in a torn ACL. Dr. Lee diagnosed left knee pain.

In a March 2, 2022 report, Dr. Jeff Altman, a Board-certified physiatrist, performed a nerve conduction study of appellant's left lower extremity that was within normal limits with no findings of any nerve entrapments and/or neuropathies. He noted that appellant declined to undergo an electromyogram due to poor tolerance.

OWCP received additional medical evidence from Dr. Mongiano. In reports dated March 22 and April 7, 2022, Dr. Mongiano diagnosed left knee and left foot injury. He again advised that appellant was temporarily totally disabled for a period of two to four weeks.

In progress reports dated March 22 and April 7, 2022, Dr. Mongiano reiterated his diagnoses of left knee osteoarthritis, chondromalacia patella, sprain of unspecified cruciate ligament (initial encounter), and other tear of the medial meniscal, current injury, and left foot pain. Initially, he found appellant temporarily totally disabled from work for two weeks and then subsequently found him temporarily totally disabled for another four weeks.

In an April 4, 2022 letter, Dr. Mongiano repeated a history of the November 23, 2021 employment injury and appellant's medical treatment. He noted that appellant continued to experience pain in his left foot including, a burning feeling at the surface of the dorsal foot, that was causing a limp and difficulty walking when he placed weight on his foot. On physical

examination of the left foot, Dr. Mongiano found no swelling, bruise, or erythema, and normal objective findings. He indicated that appellant's left foot pain was likely due to sprain/strain and opined that the condition resulted from the physical ability test on November 23, 2021. Dr. Mongiano related that the physical ability test involved strenuous stress forces that caused a stretching and forceful response of the knee and foot ligaments. He further maintained that appellant had claimed left foot pain from the beginning of his injury based on hospital records. Dr. Mongiano reiterated that the mechanism of injury was excessive stress forces placed on the ligamentary system of both the knee and left foot during the November 23, 2021 physical ability test.

OWCP, by decision dated April 20, 2022, denied expansion of the acceptance of appellant's claim to include a left foot condition, finding that the medical evidence of record did not identify a specific diagnosis or provide a rationalized opinion.

LEGAL PRECEDENT

When an employee claims that, a condition not accepted or approved by OWCP was due to an employment injury, he or she bears the burden of proof to establish that the condition is causally related to the employment injury.³

To establish causal relationship, the employee must submit rationalized medical opinion evidence.⁴ 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 accepted employment injury.⁵ 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.⁶

ANALYSIS

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

Dr. Mongiano, in his April 4, 2022 letter, related that appellant had left foot pain likely due to sprain/strain. He opined that appellant's diagnosed left foot condition was caused by the accepted November 23, 2021 injury. Dr. Mongiano explained that the physical ability test performed on November 23, 2021 involved strenuous stress forces that caused a stretching and forceful response of the knee and foot ligaments. He concluded that the mechanism of injury

³ *D.T.*, Docket No. 20-0234 (issued January 8, 2021); *see T.E.*, Docket No. 18-1595 (issued March 13, 2019); *T.F.*, Docket No. 17-0645 (issued August 15, 2018); *Jaja K. Asaramo*, 55 ECAB 200 (2004).

⁴ *D.T.*, *id.*; *T.K.*, Docket No. 18-1239 (issued May 29, 2019); *M.W.*, 57 ECAB 710 (2006); *John D. Jackson*, 55 ECAB 465 (2004).

⁵ *D.S.*, Docket No. 18-0353 (issued February 18, 2020); *T.K.*, *id.*; *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁶ *Id.*

was excessive stress forces placed on the ligamentary system of the knee and foot during the physical ability test on November 23, 2021.

It is well established that, proceedings under FECA are not adversarial in nature and while the claimant has the burden of proof to establish entitlement to compensation, OWCP shares responsibility in the development of the evidence to see that justice is done.⁷

In his April 4, 2022 report, Dr. Mongiano relied upon a proper history of injury, and provided a pathophysiological explanation as to how the accepted employment injury was sufficient to have caused a left foot sprain/strain. Accordingly, the Board finds that his opinion, while insufficiently rationalized to meet appellant's burden of proof, is sufficient, to require further development of the medical record as to whether the diagnosed left foot condition is causally related to the November 23, 2021 employment injury.⁸ The Board will therefore remand the case for further development of the medical evidence. On remand, OWCP shall prepare a SOAF, and obtain a rationalized opinion from a physician in the appropriate field of medicine as to whether the November 23, 2021 employment-related physical ability test caused, or aggravated appellant's diagnosed left foot sprain/strain. If the second opinion physician disagrees with the explanation provided by Dr. Mongiano, he or she must provide a fully rationalized report explaining why the accepted November 23, 2021 employment injury was insufficient to have caused appellant's left foot sprain/strain. Following this and other such further development as deemed necessary, OWCP shall issue a *de novo* decision.

CONCLUSION

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

⁷ See *J.C.*, Docket No. 21-0188 (issued August 5, 2022); *H.M.*, Docket No. 22-0097 (issued October 11, 2022); *J.R.*, Docket No. 21-0790 (issued June 21, 2022); *N.K.*, Docket No. 20-1634 (issued September 10, 2021); *A.V.*, Docket No. 20-1251 (issued January 28, 2021); *William J. Cantrell*, 34 ECAB 1233 (1993).

⁸ See *J.C.*, *H.M.*, *J.R.*, *id.*; *C.L.*, Docket No. 20-0213 (issued September 15, 2021); *John J. Carlone*, 41 ECAB 354, 360 (1989).

ORDER

IT IS HEREBY ORDERED THAT the April 20, 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: April 5, 2023
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