

ISSUE

The issue is whether appellant has met his burden of proof to expand the acceptance of his claim to include a left knee condition as causally related to, or as a consequence of, his accepted January 20, 2018 employment injury.

FACTUAL HISTORY

This case has previously been before the Board.³ The facts and circumstances as set forth in the Board's prior decision are incorporated herein by reference. The relevant facts are as follows.

On January 22, 2018 appellant, then a 45-year-old correctional officer, filed a traumatic injury claim (Form CA-1) alleging that on January 20, 2018 he strained his lower back when he had to physically restrain an inmate while in the performance of duty. The claim form did not indicate whether he stopped work.

OWCP received hospital records, which demonstrated that appellant was treated in the emergency department on January 30, 2018 for complaints of left sciatica pain. Appellant related that this pain caused him to fall onto his left knee four days ago. A left knee x-ray examination report revealed atherosclerosis adjacent to the proximal tibiofibular articulation, favored to be degenerative. Hospital discharge instructions showed diagnosis of left knee sprain and back pain.

In an initial examination report dated February 14, 2018, Dr. George Young, an osteopathic physician Board-certified in physiatry, described the January 20, 2018 employment incident and indicated that approximately two days later appellant had a severe episode of low back pain, which caused him to fall and injure his left knee. Upon examination of appellant's left knee, he observed marked valgus and varus laxity with effusion and antalgic gait. Dr. Young diagnosed lumbar region radiculopathy, low back pain at multiple sites, and acute left knee pain. He opined that appellant "fell secondary to [appellant's] low back injury and caused left knee injury." Dr. Young concluded that appellant's left knee injury was causally related to his employment injury. He completed a workers' compensation note, duty status report (Form CA-17), and attending physician's report (Form CA-20).

On March 8, 2018 OWCP accepted appellant's claim for lumbar sprain and lumbar radiculopathy. It paid him wage-loss compensation on the supplemental rolls, effective March 7, 2018.

In reports dated March 14 through May 16, 2018, Dr. Young recounted appellant's complaints of persistent low back pain, and noted that appellant was also receiving treatment from another physician for his complaints of left knee pain. He explained that appellant was suffering from severe low back pain, which caused appellant's knees to buckle, thereby causing his left quadriceps tear. Dr. Young conducted an examination, and diagnosed lumbar radiculopathy, low back with right lower extremity radicular pain, and left knee pain. He

³ Docket No. 20-0182 (issued April 23, 2021); Docket No. 19-1736 (issued April 23, 2021).

reported “assuming the history provided by [appellant] is true and correct ... the above diagnoses are causally related to the injury described.”

In a May 2, 2018 narrative report, Dr. Young indicated that appellant was initially examined for complaints of low back pain radiating down his right lower extremity after the January 20, 2018 employment injury. Appellant related that, two days after the injury, he experienced a severe episode of low back pain, which caused him to fall down and injure his left knee. Dr. Young reported that appellant underwent a left knee magnetic resonance imaging scan, which revealed a quadriceps tendon tear. He opined that appellant’s left quadriceps tear was secondary to the January 20, 2018 employment injury.

In a June 18, 2018 report, Dr. Todd Fellars, a Board-certified orthopedic surgeon serving as the district medical adviser (DMA), indicated that he had reviewed the statement of accepted facts (SOAF) and Dr. Young’s May 2, 2018 narrative report. He agreed with Dr. Young that appellant had developed an additional diagnosis of partial quadriceps tendon tear as a consequence of the accepted employment injury.

Appellant submitted medical reports regarding a January 27, 2018 motor vehicle accident (MVA), including a January 27, 2018 emergency department note by Dr. Craig Turner, an osteopathic physician specializing in emergency medicine, and a January 29, 2018 report by Dr. Mark G. Schwartz, a Board-certified orthopedic surgeon.

By decision dated August 17, 2018, OWCP denied appellant’s request to expand the acceptance of his claim to include a left knee injury. It found that the medical evidence of record was insufficient to establish that he sustained a left knee condition as a result of the January 20, 2018 employment injury.⁴

On August 28, 2018 appellant, through counsel, requested an oral hearing before a representative of OWCP’s Branch of Hearings and Review. A hearing was held on January 14, 2019.

In a January 24, 2019 narrative report, Dr. Young indicated that he had reviewed additional documentation regarding appellant’s work injury. He noted that appellant complained of left shoulder pain after a MVA on January 24, 2018. Dr. Young reported that appellant did not complain of left knee pain until January 29, 2018 in the hospital emergency room. He reported that appellant was diagnosed with left knee sprain and left clavicle fracture. Dr. Young opined that there was “no clear causality” that appellant’s knee pain was related to the MVA since he was not complaining of knee pain two days prior in the emergency room. He indicated that appellant reported that the left knee pain began after appellant had fallen.

By decision dated March 20, 2019, OWCP’s hearing representative set aside the August 17, 2018 decision, which denied expansion of appellant’s claim to include a left knee

⁴ By separate decision dated August 17, 2018, OWCP terminated appellant’s wage-loss compensation and medical benefits, effective August 18, 2018, because he no longer had disability or residuals causally related to the January 20, 2018 employment injury. In a third August 17, 2018 decision, it denied his claim for wage-loss compensation for total disability for the period June 13 through August 7, 2018.

condition, and remanded the case for further medical development.⁵ The hearing representative instructed OWCP to request a supplemental opinion from the DMA regarding whether appellant sustained consequential left knee conditions due to his accepted January 20, 2018 employment injury.

In a supplemental report dated May 23, 2019, Dr. Fellars indicated that the additional documentation had changed his previous opinion. He reported that the MVA was the “most likely injury” associated with the left knee, and that it was not likely that appellant injured his quadriceps due to a fall resulting from right leg weakness.

In a July 9, 2019 *de novo* decision, OWCP denied appellant’s request to expand the acceptance of his claim to include a left knee injury, finding that Dr. Fellars, the DMA, had determined that appellant did not sustain a left knee condition due to his accepted January 20, 2018 employment injury.

Appellant appealed to the Board. By decision dated April 23, 2021, the Board set aside the July 9, 2019 decision and remanded the case for referral to a second opinion examiner regarding whether he sustained a left knee injury as a consequence of the accepted January 20, 2018 employment injury.⁶

On remand, OWCP referred appellant, along with a SOAF, a series of questions, and the medical record, to Dr. Noubar A. Didizian, a Board-certified orthopedic surgeon, for a second opinion examination regarding whether appellant sustained a consequential left knee injury causally related to his January 20, 2018 employment injury. In an August 26, 2021 report, Dr. Didizian noted his review of the SOAF and that appellant’s claim was accepted for lumbar sprain and lumbar radiculopathy. He also recounted that appellant injured his clavicle during a MVA on January 27, 2018. Dr. Didizian reported that appellant allegedly fell down due to back pain, and injured his left leg. On examination of appellant’s left knee, he observed no laxity, synovitis, tenosynovitis, or joint line tenderness. Range of motion testing was 0 to 130 degrees bilaterally. Dr. Didizian indicated that x-ray scans completed on January 30, 2018 showed no joint effusion, fracture, or destruction. He explained that, if appellant had sustained an injury to the quadriceps, the x-ray scan would have shown significant effusion of the knee joint. Dr. Didizian opined that, “at least up to that date [appellant] could not have rupture to his quadriceps mechanism on the left knee.” Regarding appellant’s left knee, he reported that appellant’s first mention of the left knee was after the MVA on January 24, 2018. Dr. Didizian indicated that appellant complained of left shoulder and left knee pain when he mentioned the January 24, 2018 MVA, and opined that this “indicates that [appellant] is relating this to the car accident.” He opined that appellant did not sustain a quadriceps injury on January 20, 2018, and did not sustain a left knee injury as a result of falling down when the right leg gave out on him.

⁵ The hearing representative also affirmed the August 17, 2018 decisions, which terminated appellant’s wage-loss compensation and medical benefits and denied appellant’s wage-loss compensation claim for the period June 13 through August 17, 2018. Appellant appealed the March 20, 2019 decision to the Board. By decision dated April 23, 2021, the Board affirmed the March 20, 2019 decision, which terminated his wage-loss compensation and medical benefits, effective August 18, 2018, and denied his wage-loss compensation claim for the period June 13 through August 17, 2018.

⁶ Docket No. 20-0182 (issued April 23, 2021).

Dr. Didizian reported that, based on the chronology of events, appellant sustained a left knee injury at the time of the January 24, 2018 MVA. He explained that “hitting the dashboard in the car” is a plausible mechanism to cause partial quadriceps tear.

By decision dated September 16, 2021, OWCP denied expansion of the acceptance of appellant’s claim to include a consequential left knee injury. It found that the weight of the medical evidence rested with the August 26, 2021 report of Dr. Didizian, the second-opinion examiner.

On October 1, 2021 appellant, through counsel, requested an oral hearing before a representative of OWCP’s Branch of Hearings and Review, which was held on January 5, 2022.

By decision dated February 18, 2022, OWCP’s hearing representative affirmed the September 16, 2021 decision.

LEGAL PRECEDENT

Where 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.⁷

Causal relationship is a medical question that requires rationalized medical opinion evidence to resolve the issue.⁸ A physician’s opinion on whether there is a causal relationship between the diagnosed condition and the employment injury must be based on a complete factual and medical background.⁹ 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 employment injury.¹⁰

When an injury arises in the course of employment, every natural consequence that flows from that injury likewise arises out of the employment, unless it is the result of an independent intervening cause attributable to a claimant’s own intentional misconduct.¹¹ The basic rule is

⁷ *J.R.*, Docket No. 20-0292 (issued June 26, 2020); *W.L.*, Docket No. 17-1965 (issued September 12, 2018); *V.B.*, Docket No. 12-0599 (issued October 2, 2012); *Jaja K. Asaramo*, 55 ECAB 200, 204 (2004).

⁸ *W.N.*, Docket No. 21-0123 (issued December 29, 2021); *T.C.*, Docket No. 19-1043 (issued November 8, 2019); *M.W.*, 57 ECAB 710 (2006); *John D. Jackson*, 55 ECAB 465 (2004).

⁹ *F.A.*, Docket No. 20-1652 (issued May 21, 2021); *E.M.*, Docket No. 18-1599 (issued March 7, 2019); *Robert G. Morris*, 48 ECAB 238 (1996).

¹⁰ *M.V.*, Docket No. 18-0884 (issued December 28, 2018); *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 345 (1989).

¹¹ *M.M.*, Docket No. 20-1557 (issued November 3, 2021); *C.W.*, Docket No. 18-1536 (issued June 24, 2019); *C.R.*, Docket No. 18-1285 (issued February 12, 2019); *Albert F. Ranieri*, 55 ECAB 598 (2004); *Clement Jay After Buffalo*, 45 ECAB 707 (1994).

that a subsequent injury, whether an aggravation of the original injury or a new and distinct injury, is compensable if it is the direct and natural result of a compensable primary injury.¹²

ANALYSIS

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

In an August 26, 2021 report, Dr. Didizian noted his review of the SOAF, and that appellant's claim was accepted for lumbar sprain and lumbar radiculopathy. He discussed appellant's medical history, including his MVA, and provided examination findings. Dr. Didizian opined that appellant did not sustain a quadriceps injury on January 20, 2018 and did not sustain a left knee injury as a result of falling down. The Board finds, however, that he did not provide sufficient medical rationale to support his general conclusion that appellant did not sustain a consequential left knee injury due to appellant's accepted January 20, 2018 employment injury. In support of his opinion, Dr. Didizian relied on a January 30, 2018 left knee x-ray scan and determined that appellant did not sustain a left knee quadriceps rupture "at least up to that date." He did not opine on whether appellant could have sustained a left knee quadriceps rupture after January 30, 2018. Thus, the Board finds that Dr. Didizian's opinion is speculative, as he did not definitely opine on whether appellant sustained consequential left knee quadriceps rupture.¹³ In addition, Dr. Didizian referenced that appellant related the January 24, 2018 MVA when he was treated by Dr. Young for left knee pain, and alleged that appellant was relating his pain to the car accident. He did not refer to any objective findings, nor provide any medical reasoning to support his conclusory statements that appellant had not developed a consequential left knee condition.¹⁴ Accordingly, the Board finds that Dr. Didizian's opinion is of limited probative value.¹⁵

It is well established that proceedings under FECA are not adversarial in nature and OWCP is not a disinterested arbiter.¹⁶ While the claimant has the responsibility to establish entitlement to compensation, OWCP shares responsibility in the development of the evidence. It has the obligation to see that justice is done.¹⁷ Accordingly, once OWCP undertakes development of the record, it must do a complete job in procuring medical evidence that will

¹² *J.M.*, Docket No. 19-1926 (issued March 19, 2021); *R.M.*, Docket No. 18-1621 (issued August 23, 2019); *Debra L. Dilworth*, 57 ECAB 516 (2006).

¹³ *R.T.*, Docket No. 20-0081 (issued June 24, 2020); *C.T.*, Docket No. 19-0508 (issued September 5, 2019); *F.D.*, Docket No. 18-1596 (issued June 18, 2019).

¹⁴ *See D.T.*, Docket No. 20-0234 (issued January 8, 2021); *see also K.C.*, Docket No. 19-1251 (issued January 24, 2020).

¹⁵ *See S.M.*, Docket No. 21-0149 (issued June 21, 2021); *see also D.G.*, Docket No. 20-1183 (issued May 26, 2021).

¹⁶ *N.L.*, Docket No. 19-1592 (issued March 12, 2020); *M.T.*, Docket No. 19-0373 (issued August 22, 2019); *B.A.*, Docket No. 17-1360 (issued January 10, 2018); *Clinton E. Anthony, Jr.*, 49 ECAB 476 (1998).

¹⁷ *C.L.*, Docket No. 20-1631 (issued December 8, 2021); *L.B.*, Docket No. 19-0432 (issued July 23, 2019); *Donald R. Gervasi*, 57 ECAB 281, 286 (2005); *William J. Cantrell*, 34 ECAB 1233, 1237 (1983).

resolve the relevant issues in the case.¹⁸ In this case, it began to develop the evidence when it referred appellant to Dr. Didizian for a second opinion examination. OWCP should have obtained an opinion from Dr. Didizian, which addressed the underlying issue in this case, specifically whether appellant sustained a consequential left knee condition causally related to the accepted January 20, 2018 employment injury.

Therefore, the Board finds that the case must be remanded to OWCP. On remand, OWCP shall request that Dr. Didizian provide a supplemental opinion in order to resolve the issue of whether appellant developed consequential left knee conditions causally related to the accepted January 20, 2018 employment injury. If Dr. Didizian is unable to address whether appellant sustained a consequential left knee injury, it shall refer appellant, along with a SOAF and the medical record, to a new second opinion physician. 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.

¹⁸ *T.K.*, Docket No. 20-0150 (issued July 9, 2020); *T.C.*, Docket No. 17-1906 (issued January 10, 2018).

ORDER

IT IS HEREBY ORDERED THAT the February 18, 2022 decision of the Office of Workers' Compensation Programs is set aside and this case is remanded to OWCP for further proceedings consistent with this decision of the Board.

Issued: April 24, 2023
Washington, DC

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

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

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