

FACTUAL HISTORY

On December 30, 2019 appellant, then a 59-year-old carrier technician, filed an occupational disease claim (Form CA-2) alleging that she sustained bilateral knee conditions for which she underwent left knee replacement in September 2019 due to factors of her federal employment, including continuous walking, climbing, getting in and out of her vehicle, and pivoting on her feet. She noted that she first became aware of her condition on September 1, 2016 and its relationship to her federal employment on September 30, 2019.

In a statement accompanying her claim, appellant related that her last exposure to the employment factors described herein was on September 30, 2017 the date she retired from the employing establishment after working 36 years. She noted that she worked as a city letter carrier until the last 18 years of her employment. Appellant previously worked as a carrier technician on five delivery routes, including a park and loop route. She alleged that her duties as a carrier technician, included casing mail; bundling and placing mail into trays and loading the trays into a hamper; pushing the hamper weighing several 100 pounds to her vehicle and unloading trays from the hamper into her vehicle; carrying a mail satchel with mail weighing up to 35 pounds; walking door-to-door 25 miles per week to deliver letter mail, magazines, and small parcels; and dismounting her vehicle, solely caused her bilateral knee injury. Appellant noted that in 2004 she tore the anterior cruciate ligament (ACL) in her left knee for which she underwent reconstructive surgery. She fully recovered from her injury and returned to work without restriction. Later in 2004 appellant twisted her left knee and sustained no additional injury to her reconstructed ACL. She returned to full-duty work without restriction. Appellant related that her right knee was in bad condition and knee replacement was possible.

In a narrative statement dated December 30, 2019, J.R., appellant's supervisor, related appellant's work schedule and duties as a letter carrier, which included preparing, carrying, and delivering mail, and loading and driving a vehicle. He indicated that she never performed walking routes in the 10 years he knew her. Instead, appellant delivered mail to a cluster of boxes that contained 12 to 16 compartments. J.R. contended that she did not report her knee injury to management or submit medical documentation. He further contended that he was not aware of any employees who had knowledge of appellant's alleged injury.

OWCP, by development letter dated December 31, 2019, informed appellant of the deficiencies of her claim. It advised her of the type of factual and medical evidence needed to establish her claim and provided a questionnaire for her completion. By separate development letter of even date, OWCP requested additional information from the employing establishment, including a description of precautions taken to minimize effects of the employment activities and a copy of appellant's position description. It afforded both parties 30 days to respond.

In a January 2, 2020 response, the employing establishment related that appellant received two 10-minute breaks and one 30-minute lunch break during a workday. It submitted an official copy of her carrier technician position and a summary of her letter carrier position.

OWCP subsequently received a November 15, 2019 report, wherein, Dr. Chad B. Carlson, an attending Board-certified orthopedic surgeon, related appellant's history of a total left knee replacement, along with left ACL surgery and ACL reconstruction in 2004. Dr. Carlson opined that her work duties as a letter carrier, including walking and carrying on

uneven ground, contributed with a reasonable degree of medical certainty to the progressive nature of degenerative changes in her knee as demonstrated by x-ray, which required a total knee replacement.

By decision dated January 31, 2020, OWCP denied appellant's occupational disease claim, finding that the evidence of record was insufficient to establish the implicated factors of her federal employment. It noted that she had not responded to its development questionnaire. Thus, OWCP concluded that requirements had not been met to establish an injury as defined by FECA.

On February 23, 2020 appellant requested an oral hearing before a representative of OWCP's Branch of Hearings and Review. A telephonic hearing was held on May 29, 2020.

By decision dated July 7, 2020, OWCP's hearing representative modified, the January 31, 2020 decision to find that appellant had established the factual component of her claim; however, the claim remained denied as she had not provided medical evidence establishing a bilateral knee condition causally related to the accepted factors of her federal employment.

OWCP subsequently received an April 2, 2021 letter from Dr. Carlson. Dr. Carlson noted that appellant initially presented for bilateral knee pain in March 2019. He also noted her work duties as a carrier technician, which included walking, driving, standing, lifting, and casing and delivering mail. Dr. Carlson indicated that in 2019 appellant developed symptoms of degenerative changes in both knees and she required a total left knee replacement in September 2019. He related that her right knee also suffered progressive degenerative changes. Dr. Carlson reviewed medical records regarding appellant's left knee conditions and medical treatment. He provided an assessment of bilateral knee osteoarthritis as confirmed by imaging and x-ray. Dr. Carlson opined that the diagnosed condition was accelerated by the described factors of appellant's employment. He explained that her condition was easily caused by her repetitive work duties, which included walking, pivoting, use of stairs, getting in and out of her delivery vehicle, and walking on uneven surfaces, with repetitive knee strain. Dr. Carlson maintained that appellant's bilateral knee condition would not have progressively deteriorated if not for her work as a letter carrier.

On April 16, 2021 appellant, through her representative, requested reconsideration of the July 7, 2020 decision.

OWCP, by decision dated July 14, 2021, denied modification of the July 7, 2020 decision, finding that appellant had not submitted rationalized medical evidence establishing causal relationship between her diagnosed medical condition and the accepted factors of her federal employment.

OWCP received additional medical evidence. In a December 28, 2021 letter, Dr. Carlson reiterated appellant's history of injury and medical treatment. He also reiterated his diagnosis of bilateral knee primary osteoarthritis. Dr. Carlson referenced an article in medical literature regarding the cause of osteoarthritis. He opined that, although it was not possible to determine whether appellant's previous knee injuries contributed to her current bilateral knee condition, her work as a letter carrier, which required walking, standing, working on hard surfaces, going up and downstairs, and entering and exiting her work vehicle, had accelerated the degenerative

changes in her knees. Dr. Carlson explained that walking up to 25 miles per week at work far exceeded the normal time the average person walked and placed her in a higher risk category for the development of osteoarthritis in both knees. He further reasoned that walking up and downstairs to deliver mail resulted in flexion of the knee joint more than the average person during the day, which also resulted in a greater risk of developing bilateral knee osteoarthritis. Dr. Carlson noted that repetitive motion of appellant's knees while working resulted in the breakdown of the articular cartilage that coats the ends of the femur, tibia, and backside of the patella bones, which serves as a cushion and allows the knee to smoothly bend and straighten. He related that as the cartilage wears away the space between the bones narrows and, in her case, rubbed bone on bone. Based on Dr. Carlson's consideration of appellant's work history, medical records, previous injuries, medical treatment, and nonwork-related activities, and his review of peer literature and his own physical examination and treatment, he opined that, with a reasonable degree of medical certainty, the above-described work duties accelerated her bilateral knee degenerative changes.

OWCP also received reports dated May 18, 2005 through October 26, 2012 regarding appellant's left knee conditions and medical treatment.

On March 16, 2022 appellant, through her representative, requested reconsideration of the July 14, 2021 decision.

By decision dated September 16, 2022, OWCP denied modification of its July 14, 2021 decision.

LEGAL PRECEDENT

An employee seeking benefits under FECA³ 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, that an injury was sustained while in the performance of duty as alleged, and that any disability and/or specific condition for which compensation is claimed are 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 on 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;⁶ (2) medical evidence establishing the presence or existence of the disease

³ *Id.*

⁴ *C.S.*, Docket No. 08-1585 (issued March 3, 2009); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁵ *S.P.*, 59 ECAB 184 (2007); *Victor J. Woodhams*, 41 ECAB 345 (1989); *Joe D. Cameron*, 41 ECAB 153 (1989).

⁶ *Marlon Vera*, 54 ECAB 834 (2003); *Roger Williams*, 52 ECAB 468 (2001).

or condition for which compensation is claimed;⁷ and (3) medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant.⁸

The medical evidence required to establish causal relationship is rationalized medical opinion evidence. The opinion of the physician must be based on a complete factual and medical background of the employee, must be one of reasonable 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 employee.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, 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.

Dr. Carlson, in his December 28, 2021 letter, noted in appellant's repetitive job duties, including walking, standing, working on hard surfaces, going up and downstairs, and entering and exiting her work vehicle. He explained that, in performing these duties, she underwent accelerated degenerative changes in both knees because she walked and experienced knee joint flexion more than the average person, which resulted in a greater risk of developing bilateral knee osteoarthritis. Dr. Carlson related that repetitive walking resulted in the breakdown of the articular cartilage that coats the ends of the femur, tibia, and backside of the patella bones which serves as a cushion and allows the knee to smoothly bend and straighten. He further related that as the cartilage wears away the space between the bones narrows and, in appellant's case, rubbed bone on bone. Dr. Carlson concluded that performing these duties accelerated her bilateral knee osteoarthritis.

The Board finds that, while Dr. Carlson's report is not fully rationalized, it did provide a pathophysiological explanation that appellant sustained bilateral knee osteoarthritis due to repetitive motions required in the delivery of mail. Although this report is insufficient to meet appellant's burden of proof to establish the claim, it is sufficient to require OWCP to further develop the medical evidence.¹¹

Proceedings under FECA are not adversarial in nature, nor is OWCP a disinterested arbiter. While it is appellant's burden of proof to establish the claim, OWCP shares

⁷ *Michael R. Shaffer*, 55 ECAB 386 (2004).

⁸ *Beverly A. Spencer*, 55 ECAB 501 (2004).

⁹ *See J.R.*, Docket No. 17-1781 (issued January 16, 2018); *I.J.*, 59 ECAB 408 (2008).

¹⁰ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3e (January 2013); *see G.M.*, Docket No. 22-0730 (issued October 26, 2022).

¹¹ *See C.A.*, Docket No. 22-0764 (issued November 30, 2022); *M.R.*, Docket No. 20-0101 (issued September 14, 2021), *Richard E. Simpson*, 55 ECAB 490, 500 (2004); *John J. Carlone*, 41 ECAB 354, 360 (1989).

responsibility in the development of the evidence.¹² It has the obligation to see that justice is done.¹³

The case must therefore be remanded to OWCP for further development of the medical evidence. On remand, OWCP shall refer appellant, a statement of accepted facts, and the medical evidence of record to a physician in the appropriate field of medicine. The referral physician shall provide a rationalized opinion on whether the diagnosed bilateral knee condition is causally related to the accepted employment factors. If the physician opines that the diagnosed condition is not causally related, he or she must explain with rationale how or why his or her opinion differs from that of Dr. Carlson. 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.

ORDER

IT IS HEREBY ORDERED THAT the September 16, 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: June 21, 2023
Washington, DC

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

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

¹² *Id.*

¹³ *Id.*