

FACTUAL HISTORY

On August 18, 2020 appellant, then a 48-year-old federal air marshal, filed a traumatic injury claim (Form CA-1) alleging that on July 27, 2020 he aggravated his bilateral knee condition when participating in required training while in the performance of duty. He stopped work on July 31, 2020.²

In support of his claim, appellant submitted a September 9, 2020 progress note from Dr. David Brcka, a Board-certified orthopedist, who treated him for bilateral knee patellar chondral lesions. He reported five years of symptoms localized in the anterior aspect of the knees. Appellant noted being injured during a fall onto the front of his knees. X-rays of the knees demonstrated a lateral patellar tilt. Dr. Brcka reviewed a magnetic resonance imaging (MRI) scan of the right knee, which revealed localized articular cartilage defect centrally. An MRI scan of the left knee revealed high grade chondromalacia in the lateral patella. Appellant was treated with intra-articular injections, which provided only temporary relief. Dr. Brcka recommended diagnostic arthroscopic surgery.

On September 9, 2020 and August 20, 2021 Dr. Brcka prepared forms required by the employing establishment that noted appellant's limitations in performing physical activities related to law enforcement tasks. In an employing establishment form dated July 15, 2021, he diagnosed bilateral knee patellar chondral injury and recommended bilateral knee surgery. Dr. Brcka treated appellant on January 19, 2022 for persistent pain in both knees that was aggravated by stair climbing, kneeling and squatting. Findings on physical examination of the right knee revealed mild effusion, positive patellofemoral crepitation, and limited extension. Physical examination of the left knee revealed minimal effusion and positive patellofemoral crepitation. Dr. Brcka diagnosed chondromalacia of the right and left patellae. He recommended diagnostic arthroscopic surgery. In another progress note dated January 19, 2022, Dr. Brcka treated appellant for bilateral knee patellofemoral arthritis. He noted that appellant worked as a federal air marshal, which required significant agility, ability to perform quick movements, and significant lower body strength. Dr. Brcka opined that the diagnosed patellofemoral arthritis at its current state would not allow appellant to return to his job.³

In a development letter dated February 25, 2022, OWCP informed appellant of the deficiencies of his claim. It advised him of the type of factual and medical evidence required and afforded him 30 days to submit the requested evidence.

In a statement dated February 28, 2022, appellant indicated that his injury continued to worsen over the years, and he could no longer perform his current job duties due to the progression

² In an employee statement of workplace injury dated August 27, 2020, appellant described a November 15, 2007 employment incident that occurred while in an airplane simulator in which he injured both knees. He indicated that, more recently during training exercises he, was required to kneel on cement, which exacerbated his bilateral knee condition.

³ Appellant submitted a claim for compensation (Form CA-7) for disability from work for the period January 31 through February 23, 2022. By letter dated February 28, 2022, OWCP indicated that appellant's claim for compensation was premature as his claim had not yet been adjudicated.

of his knee conditions. He noted that because of the work-related training injury he could not complete many of the necessary duties of his job.

By decision dated March 30, 2022, OWCP accepted that the July 27, 2020 employment incident occurred as alleged. However, it denied appellant's traumatic injury claim, finding that he had not submitted medical evidence containing a diagnosis in connection with the accepted employment incident. OWCP concluded, therefore, that the requirements had not been met to establish an injury as defined under FECA.

OWCP received additional evidence. On May 4, 2022 Dr. Brcka treated appellant for persistent pain in both knees. He noted that previous workup was consistent with patellar cartilage injuries. Dr. Brcka advised that appellant sustained an injury to his knees during a training exercise at work. He opined that appellant's work injury was the major contributing cause to his bilateral knee injuries, persistent symptoms, and the need for knee surgery.

On May 6, 2022 appellant requested reconsideration.

By decision dated June 7, 2022, OWCP modified the March 30, 2022 decision to find that appellant had established a medical diagnosis in connection with the July 27, 2020 accepted employment incident. However, the claim remained denied as the medical evidence of record was insufficiently rationalized to establish causal relationship between the diagnosed medical condition and the accepted July 27, 2020 employment incident.

OWCP received additional evidence. In a progress note dated May 4, 2022, Dr. Brcka treated appellant for bilateral knee pain. Findings on physical examination of the knees revealed minimal effusion and positive patellofemoral crepitation bilaterally. Dr. Brcka diagnosed chondromalacia of the right and left patella and osteoarthritis of the right and left patellofemoral joints. In another note dated May 4, 2022, he indicated that appellant presented for recheck of his bilateral knee condition. Dr. Brcka noted that his symptoms were unchanged. Appellant reported that prior to the injury at work he had no issues with his knees. Findings on physical examination revealed minimal effusion and patellofemoral crepitation bilaterally. Dr. Brcka explained that appellant's job as a federal air marshal required significant agility, ability to perform quick movements and significant lower body strength. He opined that the work injury permanently aggravated his knee condition and was the major contributing factor to his need for surgery.

On July 14, 2022 appellant requested reconsideration.

By decision dated July 26, 2022, OWCP denied modification of the June 7, 2022 decision.

LEGAL PRECEDENT

An employee seeking benefits under FECA⁴ has the burden of proof to establish the essential elements of his or her claim, including that the individual is an employee of the United States within the meaning of FECA, that the claim was timely filed within the applicable time

⁴ *Id.*

limitation of FECA,⁵ that an injury was sustained in the performance of duty as alleged, and that any disability or medical condition for which compensation is claimed is causally related to the employment injury.⁶ 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.⁷

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it first must be determined whether fact of injury has been established. First, the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time and place, and in the manner alleged. Second, the employee must submit sufficient evidence to establish that the employment incident caused a personal injury.⁸

The medical evidence required to establish causal relationship is rationalized medical opinion evidence.⁹ The opinion of the physician must be based on a complete factual and medical background of the employee, 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 specific employment incident identified by the employee.¹⁰

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.¹¹

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish a bilateral knee condition causally related to the accepted July 27, 2020 employment incident.

On September 9, 2020 and August 20, 2021 Dr. Brcka prepared employing establishment forms that noted appellant's limitations in performing physical activities. In an employing establishment form dated July 15, 2021, he diagnosed bilateral knee patellar chondral injury and

⁵ *F.H.*, Docket No. 18-0869 (issued January 29, 2020); *J.P.*, Docket No. 19-0129 (issued April 26, 2019); *Joe D. Cameron*, 41 ECAB 153 (1989).

⁶ *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).

⁷ *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).

⁸ *T.J.*, Docket No. 19-0461 (issued August 11, 2020); *K.L.*, Docket No. 18-1029 (issued January 9, 2019); *John J. Carlone*, 41 ECAB 354 (1989).

⁹ *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).

¹⁰ *T.L.*, Docket No. 18-0778 (issued January 22, 2020); *Y.S.*, Docket No. 18-0366 (issued January 22, 2020); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

¹¹ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3e (January 2013). See *R.D.*, Docket No. 18-1551 (issued March 1, 2019).

recommended bilateral knee surgery. Similarly, on January 19, 2022, Dr. Brcka treated appellant for persistent pain in both knees and diagnosed chondromalacia of the right and left patellae. In a progress note dated January 19, 2022, he noted that appellant worked as a federal air marshal, which required significant agility, ability to perform quick movements, and significant lower body strength. Dr. Brcka opined that the diagnosed patellofemoral arthritis would not permit appellant to return to his job. Likewise, in a May 4, 2022 progress note, he diagnosed chondromalacia of the right and left patella and osteoarthritis of the right and left patellofemoral joints. However, in these reports, Dr. Brcka did not offer an opinion as to whether appellant's diagnosed conditions were causally related to the accepted employment incident on July 27, 2020. The Board has held that medical evidence that does not offer an opinion regarding the cause of an employee's condition is of no probative value on the issue of causal relationship.¹² Accordingly, these reports are insufficient to establish appellant's claim.

In a September 9, 2020 progress note, Dr. Brcka treated appellant for bilateral knee patellar chondral lesions after a fall onto the front of his knees. Similarly, on May 4, 2022, he treated appellant in follow-up for an injury to his knees sustained during a training exercise at work. Dr. Brcka opined that appellant's training injury was the major contributing cause to his bilateral knee injury, persistent symptoms, and the need for knee surgery. Likewise, in another note dated May 4, 2022, he opined that the work injury permanently aggravated his knee condition and was the major contributing factor to requiring surgery. While Dr. Brcka opined that appellant's bilateral knee conditions were work related, he failed to provide medical rationale explaining the basis of his opinion. The Board has held that without explaining, physiologically, how the specific employment incident or employment factors caused or aggravated the diagnosed condition, opinions on causal relationship are of limited probative value.¹³ Therefore, this evidence is insufficient to establish the claim.

As the medical evidence of record is insufficient to establish a bilateral knee condition causally related to the accepted July 27, 2020 employment incident, the Board finds that appellant has not met his burden of proof.

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 bilateral knee condition causally related to the accepted July 27, 2020 employment incident.

¹² *S.P.*, Docket No. 22-0711 (issued March 13, 2023); *L.B.*, Docket No. 19-1907 (issued August 14, 2020); *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

¹³ *Id.*

ORDER

IT IS HEREBY ORDERED THAT the July 26, 2022 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: May 18, 2023
Washington, DC

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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