

**United States Department of Labor
Employees' Compensation Appeals Board**

J.L., Appellant)

and)

DEPARTMENT OF LABOR, BUREAU OF)
LABOR STATISTICS, Atlanta, GA, Employer)
-----)

**Docket No. 23-1195
Issued: February 8, 2024**

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

Case Submitted on the Record

DECISION AND ORDER

Before:

ALEC J. KOROMILAS, Chief Judge
PATRICIA H. FITZGERALD, Deputy Chief Judge
JAMES D. MCGINLEY, Alternate Judge

JURISDICTION

On September 27, 2023 appellant filed a timely appeal from September 12, 2023 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act¹ (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

ISSUE

The issue is whether appellant has met his burden of proof to establish a left leg condition causally related to the accepted May 4, 2022 employment incident.

FACTUAL HISTORY

On May 20 2022 appellant, then a 68-year-old economics assistant, filed a traumatic injury claim (Form CA-1) alleging that on May 4, 2022 he sustained a left knee injury while visiting various locations to obtain data for the first time since the pandemic. He explained that he had to

¹ 5 U.S.C. § 8101 *et seq.*

repeatedly get in and out of his vehicle, extensive standing, and walk excessively. Appellant stopped work on May 5, 2022)

In support of his claim, appellant submitted prescription notes dated May 5 and 12, 2022 from Dr. Lian Jen, an osteopath and Board-certified physiatrist. Dr. Jen placed appellant off work for one week in the May 5, 2022 note, diagnosed left meniscal tear and prescribed a left knee magnetic resonance imaging (MRI) scan.

In a development letter dated May 27, 2022, OWCP informed appellant of the deficiencies of his claim. It advised him of the type of medical and factual evidence required to establish his claim. OWCP afforded appellant 30 days to submit the requested evidence.

OWCP subsequently received reports dated May 5 and 12, 2022 from Dr. Jen. Dr. Jen noted that appellant experienced new left knee pain while walking at work on May 4, 2022. He provided detailed physical examination findings, noting that appellant walked with a left leg limp and had limited left knee flexion. Dr. Jen diagnosed left knee strain and left tibial fibula fracture.

In reports dated May 26 and June 23, 2022, Dr. Jen noted that appellant's left knee was not improving with rest and injection. He diagnosed left knee sprain, suspected meniscal tear, and left tibial fibula fracture. Physical examination findings were unchanged from prior reports. In a May 26, 2022 prescription note, Dr. Jen diagnosed left knee pain and referred appellant to an orthopedist.

In a letter dated June 23, 2022, Dr. Jen noted that on May 4, 2022 appellant experienced acute left knee pain after performing field work and with repeated walking. Appellant's physical examination revealed significant left knee medial pain and limp. He diagnosed left knee strain and pain which he attributed to walking at work.

OWCP also received a narrative statement from appellant, dated June 5, 2022, wherein he described his employment activities on May 4, 2022.

By decision dated July 15, 2022, OWCP denied the claim finding the evidence insufficient to establish a causal relationship between the diagnosed left knee conditions and accepted May 4, 2022 employment event.

On August 14, 2022 appellant requested a review of the written record by a representative of OWCP's Branch of Hearings and Review.

An MRI scan of appellant's left knee dated August 1, 2022 demonstrated an impression of lateral femoral condyle midportion subcortical insufficiency fracture, moderate knee joint effusion, small popliteal cyst, marked nonspecific prepatellar soft tissues edema, patellar tilt without subluxation, and prominent posterior medical meniscus horn intrasubstance degeneration without surfacing tear.

In a report dated August 10, 2022, Dr. Danni Driscoll, a Board-certified anesthesiologist, diagnosed left knee effusion, nondisplaced left tibia lateral condyle fracture, and unspecified left knee internal derangement. She attributed the diagnosed conditions to the May 4, 2022 work injury based examination findings and review of medical records and objective test results.

By decision dated December 20, 2022, OWCP's hearing representative affirmed the July 15, 2022 decision.

On May 19, 2023 appellant requested reconsideration. He asserted that OWCP erred in denying his left lateral femoral condyle fracture was causally related to the accepted May 4, 2022 employment incident. Appellant noted that he recently was diagnosed with vitamin D deficiency which also can affect bones.

By decision dated July 17, 2023, OWCP denied appellant's request for reconsideration of the merits of his claim, pursuant to 5 U.S.C. § 8128(a).

On September 10, 2023 appellant again requested reconsideration and submitted articles from medical journals regarding Meniere's Disease, femoral neuropathy, and fractures without significant trauma.

By decision dated September 12, 2023, OWCP denied modification.

LEGAL PRECEDENT

An employee seeking benefits under FECA² has the burden of proof to establish 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 timely filed within the applicable time limitation period of FECA,³ 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.⁴ 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.⁵

To determine if an employee has sustained a traumatic injury in the performance of duty, OWCP begins with an analysis of whether fact of injury has been established. Fact of injury consists of two components that must be considered in conjunction with one another. The first component is whether the employee actually experienced the employment incident at the time,

² *Id.*

³ *See A.S.*, Docket No. 22-1227 (issued April 6, 2023); *S.P.*, Docket No. 22-0766 (issued August 17, 2022); *J.P.*, Docket No. 19-0129 (issued April 26, 2019); *S.B.*, Docket No. 17-1779 (issued February 7, 2018); *Joe D. Cameron*, 41 ECAB 153 (1989).

⁴ *A.S., id.*; *J.M.*, Docket No. 17-0284 (issued February 7, 2018); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

⁵ *A.S., id.*; *R.R.*, Docket No. 19-0048 (issued April 25, 2019); *L.M.*, Docket No. 13-1402 (issued February 7, 2014); *Delores C. Ellyett*, 41 ECAB 992 (1990).

place, and in the manner alleged.⁶ The second component is whether the employment incident caused a personal injury.⁷

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

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish a left knee condition causally related to the accepted May 4, 2022 employment incident.

In a June 23, 2022 report, Dr. Jen related that appellant experienced left knee strain after repeated walking and performing field work visiting stores. In an August 10, 2022 report, Dr. Driscoll diagnosed left knee effusion, nondisplaced left tibia lateral condyle fracture, and unspecified left knee internal derangement, which she attributed to the May 4, 2022 employment incident. However, neither physician provided a rationalized explanation of how the accepted May 4, 2022 employment incident caused or contributed to appellant's left knee conditions.⁹ The Board has held that a medical opinion that does not offer a rationalized explanation by the physician of how the specific employment incident physiologically caused or aggravated the diagnosed conditions is of limited probative value.¹⁰ As noted above, the Board has held that a report 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.¹¹ For these reasons, this evidence is insufficient to establish the claim.

Appellant also submitted prescription notes and additional reports from Dr. Jen dated May 5, 12, and 26 and June 23, 2023. In these reports Dr. Jen listed appellant's diagnoses, but offered no opinion regarding the cause of the diagnosed conditions. The Board has held that a

⁶ *A.S., id.; T.J.*, Docket No. 19-0461 (issued August 11, 2020); *Delores C. Ellyett, id.; Elaine Pendleton*, 40 ECAB 1143 (1989).

⁷ *A.S., id.; D.M.*, Docket No. 20-0386 (issued August 10, 2020); *John J. Carlone*, 41 ECAB 354 (1989).

⁸ *Id.*

⁹ *M.W.*, Docket No. 23-0687 (issued August 29, 2023); *J.D.*, Docket No. 19-1953 (issued January 11, 2021); *J.C.*, Docket No. 18-1474 (issued March 20, 2019); *M.M.*, Docket No. 15-0607 (issued May 15, 2015); *M.W.*, Docket No. 14-1664 (issued December 5, 2014).

¹⁰ *M.W., id.; J.B.*, Docket No. 21-0011 (issued April 20, 2021); *A.M.*, Docket No. 19-1394 (issued February 23, 2021).

¹¹ *M.W., id.; A.S., supra* note 3; *Leslie C. Moore*, 52 ECAB 132 (2000).

medical report lacking a rationalized medical opinion regarding causal relationship is of no probative value.¹² These reports are therefore insufficient to establish causal relationship.¹³

OWCP also received an August 1, 2022 MRI scan of appellant's left knee. The Board has held that diagnostic tests, standing alone, lack probative value on the issue of causal relationship as they do not address the relationship between the accepted employment factors and a diagnosed condition.¹⁴

Appellant also submitted articles from medical journals regarding Meniere's Disease, femoral neuropathy, and fractures without significant trauma. The Board has held, however, that newspaper clippings, medical texts, and excerpts from publications are of no evidentiary value in establishing the causal relationship between a claimed condition and an employee's federal employment. Such materials are of general application and are not determinative of whether the specific condition claimed is related to the particular employment factors alleged by the employee.¹⁵

As the medical evidence of record is insufficient to establish a medical condition causally related to the accepted May 4, 2022 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 medical condition causally related to the accepted May 4, 2022 employment incident.

¹² See *J.P.*, Docket No. 20-0381 (issued July 28, 2020); *P.C.*, Docket No. 18-0167 (issued May 7, 2019); *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

¹³ *Y.C.*, Docket No. 17-1938 (issued January 7, 2019).

¹⁴ See *J.L.*, Docket No. 20-1662 (issued October 7, 2022); see *W.M.*, Docket No. 19-1853 (issued May 13, 2020); *L.F.*, Docket No. 19-1905 (issued April 10, 2020).

¹⁵ See *S.V.*, Docket No. 22-1010 (issued February 21, 2023); *A.M.*, Docket No. 18-0562 (issued January 23, 2020); *A.G.*, Docket No. 18-0281 (issued July 12, 2018); *R.O.*, Docket No. 08-1133 (issued October 8, 2008); *William C. Bush*, 40 ECAB 1064, 1075 (1989) (excerpts from publications lack probative value in resolving medical questions unless a physician shows the applicability of the general medical principles discussed in the articles to the specific factual situation in a case).

ORDER

IT IS HEREBY ORDERED THAT the September 12, 2023 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: February 8, 2024
Washington, DC

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

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

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