

² The Board notes that following the October 29, 2021 decision, appellant submitted additional evidence to OWCP and on appeal to the Board. However, the Board's *Rules of Procedure* provides: "The Board's review of a case is limited to the evidence in the case record that was before OWCP at the time of its final decision. Evidence not before OWCP will not be considered by the Board for the first time on appeal." 20 C.F.R. § 501.2(c)(1). Thus, the Board is precluded from reviewing this additional evidence for the first time on appeal. *Id.*

FACTUAL HISTORY

On May 3, 2021 appellant, then a 35-year-old city carrier assistant, filed a traumatic injury claim (Form CA-1) alleging that on April 29, 2021 she sustained a right knee injury when a mailbox she encountered on her delivery route fell off a wall and struck her right knee while in the performance of duty. She stopped work on the date of the claimed injury. Appellant submitted copies of photographs, including the mailbox she asserted had fallen on her.

Appellant submitted an April 30, 2021 note from Anne Lee, a nurse practitioner, who indicated that appellant had visited the office on April 30, 2021 and could return to work on May 5, 2021. Ms. Lee noted that appellant had difficulty walking due to her right knee injury sustained at work.

In a May 3, 2021 narrative report, Dr. Gordon C. Davis, an osteopath and Board-certified internist, indicated that appellant had been treated in his office for work-related injuries sustained on April 29, 2021. He diagnosed right hip sprain/strain, right knee sprain/strain, and right ankle sprain/strain. Dr. Davis indicated that appellant was unable to work from May 3, 2021 until further notice. In a separate May 3, 2021 form report, he listed a date of injury of April 29, 2021 and noted that appellant reported that her injury occurred when a mailbox fell on her right knee on that date. Dr. Davis advised that appellant exhibited abnormal/restricted range of motion of the right hip, right knee, and right ankle, and diagnosed right hip sprain/strain, right knee sprain/strain, right ankle sprain/strain, and right leg sprain/strain. He opined that appellant could not work due to the condition of her right hip, right knee, right ankle, and right leg.

Appellant also submitted an authorization for examination and/or treatment (Form CA-16) signed by an authorizing official on May 3, 2021. The case record also contains a May 11, 2021 e-mail in which the supervisor of customer service for the employing establishment noted that he inspected the mailbox after appellant reported it fell on her and acknowledged that it had not been securely fastened to the wall.

In May 17 and June 2, 2021 duty status reports (Form CA-17), Dr. Davis listed the date of injury as April 29, 2021, noted that appellant reported a mailbox fell on her on that date, and diagnosed right hip sprain/strain, right knee sprain/strain, right ankle sprain, and right leg sprain/strain. In both reports, he indicated that appellant could not work. In a June 2, 2021 form report, Dr. Davis listed a date of injury of April 29, 2021, and diagnosed right hip sprain/strain, right knee sprain/strain, right ankle sprain/strain, and right leg sprain/strain. He found that appellant could not work.

A May 25, 2021 magnetic resonance imaging (MRI) scan of appellant's right knee contained an impression of joint effusion, which might be from acute trauma or inflammation, and subcutaneous edema at the anteromedial aspect of the right knee joint, likely from trauma. A May 26, 2021 right ankle MRI scan revealed small joint effusion, which might be from trauma or inflammation.

In a July 15, 2021 development letter, OWCP informed appellant of the deficiencies of her claim. It advised her of the type of factual and medical evidence needed and provided a

questionnaire for her completion. OWCP afforded appellant 30 days to submit the requested evidence. No response was received.

By decision dated August 17, 2021, OWCP accepted that the April 29, 2021 employment incident occurred, as alleged. However, it denied her claim, finding that the medical evidence of record was insufficient to establish a medical condition casually related to the April 29, 2021 accepted employment incident.

On September 14, 2021 appellant requested reconsideration of the August 17, 2021 decision. In an accompanying statement, she provided further description of the April 29, 2021 incident when the mailbox fell from the wall and struck her. She noted that the mailbox struck both her right knee and right ankle.

Appellant submitted a June 3, 2021 report from Dr. Howard I. Baum, a Board-certified orthopedic surgeon, who related that appellant was involved in a work-related injury on April 29, 2021 when a mailbox fell on her right knee and right ankle. Dr. Baum noted that physical examination of the right knee revealed stiffness on flexion, diffuse peripatellar tenderness, and the presence of a Baker's cyst. He diagnosed right knee contusion and right ankle sprain, and noted that appellant needed two more weeks of home exercise before she could return to work.

In July 7, August 4, and September 1, 2021 form reports, Dr. Davis listed a date of injury of April 29, 2021, and diagnosed right hip sprain/strain, right knee sprain/strain, right ankle sprain/strain, and right leg sprain/strain. He found that appellant could not work.

In a September 1, 2021 report, Dr. Davis indicated that appellant had been involved in an accident at work on April 29, 2021 and noted that, as a result of the impact, she sustained injuries to her right hip and leg, including the knee and ankle. He reported current physical examination findings, provided a "final diagnosis" of "right knee," and indicated that appellant had permanent partial and significant loss of use of the body parts injured on April 29, 2021. Dr. Davis noted that, according to her statement, appellant did not experience the same or similar symptomatology prior to the April 29, 2021 employment incident. He opined that the type of accident appellant suffered and the mechanism of the injury were completely consistent with her clinical presentation and symptomatology. Dr. Davis indicated that "this causes vertebrae to be misaligned, ligaments and muscle to be over stretched, nerves to be irritated, and various soft tissues to be inflamed" and noted that the ligamentous and capsular structures of "the joint" possess elasticity and tensile strength only to a limit. He advised that some recoil is possible when "they are subjected to a deforming force" but that they never regain their original size and shape. Dr. Davis indicated that repair is slow and occurs by scar tissue formation with the scars becoming less elastic and functional than the original tissue they replace.

Dr. Davis further noted that the muscles that reinforce the ligamentous and capsular structures, which create movement are very susceptible to direct trauma. He indicated that the short muscles and those with attachments to the bony process are most vulnerable and advised that overstretching the muscles causes pain and spasm, which may be persistent. Dr. Davis noted that direct traumatic insult to a nerve causes inflammation in the dural sleeves and the perineural tissues, which in turn causes a lock of normal movement of the nerve root within the intervertebral foramen. He advised that the subsequent irritation of the involved neural structures can be

responsible for future complications involving pain and paresthesia. Dr. Davis explained that, when the supporting structures of the spine have been traumatized without the existence of spinal fracture or dislocation, the common syndrome of joint dysfunction, spasm, restriction, discomfort, and pain is usually encountered. He noted, “[t]herefore, there is good reason to believe, with a reasonable degree of medical certainty, that the condition the patient has developed is solely related to and has a direct causal relationship to the accident on [April 29, 2021].”

Appellant also submitted May 1, 2021 right knee x-rays, which contained an impression of mild suprapatellar joint effusion.

By decision dated October 29, 2021, OWCP denied modification of its August 17, 2021 decision.

LEGAL PRECEDENT

An employee seeking benefits under FECA has the burden of proof to establish the essential elements of his or her claim, including 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.³ 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.⁴

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 that allegedly occurred at the time and place, and in the manner alleged.⁵ The second component is whether the employment incident caused an injury.⁶

Rationalized medical opinion evidence is required to establish causal relationship. The opinion of the physician must be based on a complete factual and medical background, 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 specific employment incident.⁷ Neither the mere fact that a disease or condition manifests itself during a period of employment,

³ *J.M.*, Docket No. 17-0284 (issued February 7, 2018); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

⁴ *K.M.*, Docket No. 15-1660 (issued September 16, 2016); *L.M.*, Docket No. 13-1402 (issued February 7, 2014); *Delores C. Ellyett*, 41 ECAB 992 (1990).

⁵ *B.P.*, Docket No. 16-1549 (issued January 18, 2017); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁶ *M.H.*, Docket No. 18-1737 (issued March 13, 2019); *John J. Carlone*, 41 ECAB 354 (1989).

⁷ *S.S.*, Docket No. 18-1488 (issued March 11, 2019).

nor the belief that the disease or condition was caused or aggravated by employment factors or incidents is sufficient to establish causal relationship.⁸

ANALYSIS

The Board finds that appellant has met her burden of proof to establish a right knee contusion causally related to the accepted April 29, 2021 employment incident.

On June 3, 2021 Dr. Baum related that appellant was involved in a work-related injury on April 29, 2021 when a mailbox fell on her right knee and right ankle. He reported physical examination findings and diagnosed right knee contusion. OWCP's procedures provide that, if a condition reported is a minor one, such as a burn, laceration, insect sting, or animal bite, which can be identified on visual inspection by a lay person, a case may be accepted without a medical report.⁹ The diagnosis of right knee contusion was consistent with appellant's physical examination and the mechanism of injury. As the evidence of record establishes that the accepted April 29, 2021 employment incident resulted in a minor visible injury, the Board finds that appellant has met her burden of proof to establish a right knee contusion casually related to the accepted April 29, 2021 employment incident.¹⁰ The case will, therefore, be remanded to OWCP for payment of medical expenses for appellant's right knee contusion and any attendant disability.¹¹

The Board further finds that this case is not in posture for decision with regard to whether appellant has met her burden of proof to establish additional conditions as causally related to the accepted April 29, 2021 employment injury.

Appellant submitted a May 3, 2021 report wherein Dr. Davis indicated that she had been treated in his office for work-related injuries sustained on April 29, 2021. He diagnosed right hip sprain/strain, right knee sprain/strain, and right ankle sprain/strain, and indicated that appellant was unable to work from May 3, 2021 until further notice. In a separate May 3, 2021 report, Dr. Davis listed a date of injury of April 29, 2021, and noted that appellant reported that her injury occurred when a mailbox fell on her right knee on that date. He diagnosed right hip sprain/strain, right knee sprain/strain, right ankle sprain/strain, and right leg sprain/strain. In a September 1, 2021 report, Dr. Davis noted that appellant had been involved in an accident at work on April 29, 2021 and opined that, as a result of the impact, she sustained injuries to her right hip and leg, including the knee and ankle. He reported current physical examination findings and indicated that appellant had permanent partial and significant loss of use of the body parts injured on

⁸ *J.L.*, Docket No. 18-1804 (issued April 12, 2019).

⁹ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3c (May 2023). *See also C.S.*, Docket No. 21-0560 (issued July 13, 2023).

¹⁰ *See K.C.*, Docket No. 22-0788 (issued August 23, 2023) (the Board accepted a visible injury of left knee contusion as causally related to the accepted employment incident); *N.B.*, Docket No. 20-0794 (issued July 29, 2022) (the Board accepted a visible injury of right shoulder contusion as causally related to the accepted employment incident); *B.W.*, Docket No. 22-0134 (issued May 24, 2022) (the Board accepted a visible injury of lower back/buttocks contusion as causally related to the accepted employment incident).

¹¹ *See N.B.*, *supra* note 10; *A.J.*, Docket No. 20-0484 (issued September 2, 2020).

April 29, 2021. Dr. Davis found that the type of accident appellant suffered on April 29, 2021 and the mechanism of the injury were completely consistent with her clinical presentation and symptomatology. He explained that, when the supporting structures of the spine have been traumatized without the existence of spinal fracture or dislocation, the common syndrome of joint dysfunction, spasm, restriction, discomfort, and pain is usually encountered. Dr. Davis therefore opined that “the condition the patient has developed is solely related to and has a direct causal relationship to the accident on [April 29, 2021].”

While the reports of Drs. Davis are insufficiently rationalized to establish causal relationship, they are sufficient to require further development of the medical evidence regarding acceptance of the claim to include additional conditions.¹²

It is well established that proceedings under FECA are not adversarial in nature and, while appellant has the burden of proof to establish entitlement to compensation, OWCP shares responsibility in the development of the evidence.¹³ It has an obligation to see that justice is done.¹⁴

The case must, therefore, be remanded to OWCP. On remand, OWCP shall refer appellant and the case record, including a statement of accepted facts, and a series of questions, to a specialist in the appropriate field of medicine for an evaluation and well-rationalized opinion as to whether the additional diagnosed conditions are causally related to the accepted April 29, 2021 employment injury. If the physician opines that the additional diagnosed conditions are not causally related to the employment injury, he or she must explain, with rationale, how or why their opinion differs from that of Dr. Davis. Following this and other such further development as deemed necessary, OWCP shall issue a *de novo* decision.

CONCLUSION

The Board finds that appellant has met her burden of proof to establish a right knee contusion causally related to the accepted April 29, 2021 employment incident. The Board further finds that this case is not in posture for decision regarding whether she has met her burden of proof to establish additional conditions as causally related to the accepted April 29, 2021 employment injury.

¹² *J.R.*, Docket No. 21-0790 (issued June 21, 2022); *J.H.*, Docket No. 18-1637 (issued January 29, 2020); *D.S.*, Docket No. 17-1359 (issued May 3, 2019); *X.V.*, Docket No. 18-1360 (issued April 12, 2019); *C.M.*, Docket No. 17-1977 (issued January 29, 2019); *William J. Cantrell*, 34 ECAB 1223 (1983).

¹³ See *A.P.*, Docket No. 17-0813 (issued January 3, 2018); *Jimmy A. Hammons*, 51 ECAB 219, 223 (1999).

¹⁴ *T.T.*, Docket No. 23-0248 (issued August 14, 2023); *John J. Carlone*, *supra* note 6.

ORDER

IT IS HEREBY ORDERED THAT the October 29, 2021 decision of the Office of Workers' Compensation Programs is reversed in part and set aside in part. The case is remanded for further proceedings consistent with this decision of the Board.

Issued: March 14, 2024
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