

¹ Appellant submitted a timely request for oral argument before the Board. 20 C.F.R. § 501.5(b). Pursuant to the Board's *Rules of Procedure*, oral argument may be held in the discretion of the Board. 20 C.F.R. § 501.5(a). In support of his oral argument request, appellant asserted that oral argument should be granted because he did not understand why OWCP had denied his claim despite his submission of witness statements and medical evidence. The Board, in exercising its discretion, denies appellant's request for oral argument because the arguments on appeal can adequately be addressed in a decision based on a review of the case record. Oral argument in this appeal would further delay issuance of a Board decision and not serve a useful purpose. As such, the oral argument request is denied, and this decision is based on the case record as submitted to the Board.

Compensation Act² (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.³

ISSUE

The issue is whether appellant has met his burden of proof to establish a medical condition causally related to the accepted August 3, 2022 employment incident.

FACTUAL HISTORY

On November 30, 2022 appellant, then a 50-year-old rural carrier associate, filed a traumatic injury claim (Form CA-1) alleging that on August 3, 2022 he sustained injury to his patella when he exited his truck to deliver mail, stepped on a bottle, and fell to the ground while in the performance of duty. He also alleged that he sustained a shoulder injury when he tried to grab onto his truck to prevent the fall. Appellant stopped work on August 4, 2022.

In a development letter dated December 7, 2022, OWCP informed appellant of the deficiencies of his claim. It advised him of the type of factual and medical evidence needed and afforded him 30 days to submit the necessary evidence. No response was received.

By decision dated January 16, 2023, OWCP accepted that appellant had established that the August 3, 2022 employment incident had occurred, as alleged. However, it denied his claim, finding that the medical evidence of record was insufficient to establish a diagnosed medical condition in connection with the accepted August 3, 2022 employment incident. Therefore, OWCP concluded that the requirements had not been met to establish an injury as defined by FECA.

On January 27, 2023 appellant requested a review of the written record by a representative of OWCP's Branch of Hearings and Review.

In a January 27, 2023 statement, appellant asserted that on August 3, 2022 as he was getting out of his truck to deliver mail, he stepped on a glass bottle and fell between the curb and the truck, injuring his left knee, right ankle, and right thumb. When he returned to his duty station, there were no supervisors present but he discussed the incident with a coworker. On August 4, 2022 appellant reported the incident to a supervisor. He then sought treatment at an urgent care center, where an orthopedist diagnosed a patellar fracture.

² 5 U.S.C. § 8101 *et seq.*

³ The Board notes that, following the July 6, 2023 merit decision, OWCP received additional evidence. 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.*

OWCP received photographs of a street and curb where the August 3, 2022 employment incident occurred.

OWCP also received an August 4, 2022 work slip from an urgent care center bearing an illegible signature; an August 5, 2023 imaging study of appellant's left knee; and an August 15, 2022 computerized tomography scan of appellant's left knee, which demonstrated a displaced transverse fracture of the patella.

In an August 29, 2022 report, Dr. Kyle Anthony Borque, a Board-certified orthopedic surgeon, opined that radiographs of appellant's left knee demonstrated a transverse patellar fracture with minimal displacement of the articular surface.

In a May 22, 2023 note, Dr. Thomas J. Parr, a Board-certified orthopedic surgeon, returned appellant to light-duty work with restrictions of no lifting greater than 25 pounds and no overhead lifting.

By decision dated July 6, 2023, an OWCP hearing representative modified the January 16, 2023 decision to find a diagnosis of "knee fracture." However, the claim remained denied as the medical evidence of record was insufficient to establish that the diagnosed medical condition was causally related to the accepted August 3, 2022 employment incident.

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 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. There are two components involved in establishing fact of injury. The first component is whether the

⁴ *Supra* note 1.

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).

employee actually experienced the employment incident at the time and place, and in the manner alleged. The second component is whether the employment incident caused a, injury.

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 Neither the mere fact that a disease or condition manifests itself during a period of employment, nor the belief that the disease or condition was caused or aggravated by employment factors or incidents is sufficient to establish causal relationship.¹¹

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish a medical condition causally related to the accepted August 3, 2022 employment incident.

Dr. Parr, in his May 22, 2023 note, found back and shoulder conditions, and released appellant to restricted duty. However, he did not provide an opinion on causal relationship between the diagnosed condition and the accepted August 3, 2022 employment incident. The Board has held that a medical report that does not provide an opinion on causal relationship is of no probative value.¹² This evidence is, therefore, insufficient to establish the claim.

OWCP also received an August 4, 2022 work slip with an illegible signature. The Board has held that medical evidence containing an illegible signature, or which is unsigned, has no probative value, as it is not established that the author is a physician.¹³ This evidence is, therefore, insufficient to establish the claim.

⁸ *R.P.*, Docket No. 21-1189 (issued July 29, 2022); *E.M.*, Docket No. 18-1599 (issued March 7, 2019); *Robert G. Morris*, 48 ECAB 238 (1996).

⁹ *R.P.*, *id.*; *F.A.*, Docket No. 20-1652 (issued May 21, 2021); *M.V.*, Docket No. 18-0884 (issued December 28, 2018); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

¹⁰ *Id.*

¹¹ *T.M.*, Docket No. 22-0220 (issued July 29, 2022); *S.S.*, Docket No. 18-1488 (issued March 11, 2019); *see also J.L.*, Docket No. 18-1804 (issued April 12, 2019).

¹² *See B.R.*, Docket No. 23-0546 (issued August 29, 2023); *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

¹³ *B.R.*, *id.*; *G.D.*, Docket No. 22-0555 (issued November 18, 2022); *see T.C.*, Docket No. 21-1123 (issued April 5, 2022); *Z.G.*, 19-0967 (issued October 21, 2019); *R.M.*, 59 ECAB 690 (2008); *Merton J. Sills*, 39 ECAB 572, 575 (1988); *Bradford L. Sullivan*, 33 ECAB 1568 (1982).

The remaining evidence of record consisted of imaging studies of the left knee. The Board has held that diagnostic studies, standing alone, lack probative value and are insufficient to establish the claim.¹⁴

As the medical evidence of record is insufficient to establish a medical condition causally related to the accepted August 3, 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 August 3, 2022 employment incident.

ORDER

IT IS HEREBY ORDERED THAT the July 6, 2023 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: March 4, 2024
Washington, DC

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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

¹⁴ *M.W.*, Docket No. 23-0687 (issued August 29, 2023); *J.K.*, Docket No. 20-0591 (issued August 12, 2020); *A.B.*, Docket No. 17-0301 (issued May 19, 2017).