

² The Board notes that, following the June 6, 2023 decision, appellant submitted additional evidence to OWCP. 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.*

ISSUE

The issue is whether appellant has met his burden of proof to establish disability from work for the period March 22 through April 21, 2023 causally related to his accepted left knee conditions.

FACTUAL HISTORY

On February 12, 2023 appellant, then a 52-year-old city carrier, filed an occupational disease claim (Form CA-2) alleging that he developed pain and swelling of his left knee due to factors of his federal employment including repetitive mounting and dismounting his mail truck, climbing stairs, and delivery of heavy packages. He noted that he first became aware of his condition and realized its relationship to factors of his federal employment on February 10, 2023. Appellant stopped work on February 10, 2023. OWCP accepted his claim for unilateral primary osteoarthritis of the left knee and sprain of the anterior cruciate ligament (ACL) of the left knee. It paid appellant wage-loss compensation on the supplemental rolls from April 22 through June 30, 2023.

In an attending physician's report (Form CA-20) dated March 21, 2023, Dr. Ravi Patel, a Board-certified internist, indicated that appellant developed a left knee injury as a result of performing repetitive duties as a carrier for 19 years. Dr. Patel diagnosed primary osteoarthritis of the left knee and ACL sprain and checked a box marked "Yes" indicating that appellant's condition had been caused or aggravated by an employment activity. He noted that appellant was totally disabled from March 21 through April 21, 2023. In a duty status report (Form CA-17) of the same date, Dr. Patel diagnosed primary osteoarthritis of the left knee and ACL sprain and noted that appellant was off work from March 21 through April 21, 2023.

In daily progress notes dated March 15, 21, and 22, 2023, Dr. Voranart K. Sunakapakdee, a chiropractor, noted that appellant presented with worsening left knee pain. He reported being chased a short distance by a dog while on his mail route and hopping onto his long-life vehicle (LLV) to avoid getting bitten. Dr. Sunakapakdee advised that appellant would be off work for 30 days due to an exacerbation of his left knee condition.

In late-March 2023, appellant filed a claim for compensation (Form CA-7) for disability from work for the period March 22 through 24, 2023.

OWCP received daily progress notes from Dr. Sunakapakdee dated March 27 and 28, 2023 wherein he noted appellant's condition was unchanged and he reported that appellant had moderate left knee pain. He provided treatment modalities and continued the current existing protocol.

Appellant was treated by Dr. Terry Madsen, a Board-certified orthopedist, on March 30, 2023 for a left knee injury. Dr. Madsen noted that appellant reported the injury was sustained while working as a city carrier which required lifting up to 70 pounds and pushing and pulling carts full of mail. Physical examination of the left knee revealed a small effusion and pain over the pes bursa. Dr. Madsen noted a magnetic resonance imaging (MRI) scan of the left knee revealed a meniscal tear, ACL sprain, and chondromalacia. He diagnosed unilateral primary osteoarthritis of the left knee and sprain of the ACL of the right knee.

On April 4 and 6, 2023 Dr. Aaron E. Haley and Dr. Katrina Steele, both chiropractors, treated appellant for moderate left knee pain that was slightly improving. They performed left knee treatment modalities.

In daily progress notes dated April 11 and 12, 2023, Dr. Sunakapakdee noted that appellant presented with moderate left knee pain but was responding to treatment. He continued the existing treatment regimen.

In early-April 2023, appellant filed a Form CA-7 for disability from work for the period March 25 through April 7, 2022.

In a development letter dated April 17, 2023, OWCP informed appellant of the deficiencies of his claims for compensation. It advised him of the type of medical evidence required and afforded him 30 days to submit the requested evidence.

In a Form CA-20 dated April 18, 2023, Dr. Patel noted that appellant developed a left knee condition as a result of performing repetitive duties as a carrier for 19 years. He diagnosed primary osteoarthritis of the left knee and ACL sprain and checked a box marked "Yes" indicating that appellant's condition had been caused or aggravated by an employment activity. Dr. Patel noted that appellant was partially disabled from April 8 through June 19, 2023. In a Form CA-17 of the same date, he diagnosed primary osteoarthritis of the left knee and ACL sprain and noted that appellant was off work from April 18 through May 19, 2023.

On April 21, 2023 appellant filed a Form CA-7 for disability for the period April 8 through 21, 2023.

In a development letter dated April 27, 2023, OWCP again informed appellant of the deficiencies of his claim for compensation. It advised him of the type of medical evidence required and afforded him 30 days to submit the requested evidence.

OWCP received additional evidence. An MRI scan of the left knee dated March 7, 2023 revealed complex stellate tear within the body and posterior horn of the medial meniscus, tricompartmental osteoarthritis and chondromalacia, knee joint effusion, and popliteal cyst.

On April 26, 2023 a functional capacity examination (FCE) was performed, which revealed that appellant demonstrated the ability to perform his job on a medium-heavy physical demand level up to 70 pounds.

In a note dated April 26, 2023, Dr. Patel noted treating appellant on March 21, 2023 for a left knee injury. Appellant reported that while delivering a package he was chased by a dog and had to sprint a short distance and jump into his LLV to avoid being bitten. Dr. Patel explained that appellant planted and pivoted off his left foot, causing aggravation to his left knee condition, specifically the weight-bearing medial meniscus. He indicated that any weight-bearing activity and motions such as standing, walking, or working exacerbated his condition and he opined that appellant should be off work to avoid further exacerbation of his present injuries. Dr. Patel noted that appellant was expected to return to regular-duty work on April 29, 2023, for six hours a day. In a Form CA-17 of the same date, he noted improvement in appellant's biomechanics and diagnosed primary osteoarthritis of the left knee and ACL sprain. Dr. Patel returned appellant to

work regular duty six hours per day. In a report dated May 2, 2023, Dr. Patel treated appellant for left knee pain and swelling. He advised that the FCE of April 26, 2023 revealed that appellant could work in the medium-to-heavy physical demand level. Dr. Patel diagnosed primary osteoarthritis of the left knee and sprain of the left ACL. He opined that the injuries sustained by appellant were attributed to performing his usual and customary work duties, which required him to lift up to 70 pounds, push, pull, and carry various parcels, stand for prolonged periods, climb stairs, and mount and dismount his mail truck. Dr. Patel indicated to a high degree of medical certainty that the diagnosed conditions were the direct result of appellant's work activities. He continued appellant's work status six hours a day.

By decision dated June 6, 2023, OWCP denied appellant's claim for wage-loss compensation, finding that the medical evidence of record was insufficient to establish disability from work for the period March 22 through April 21, 2023 causally related to the accepted left knee conditions.

LEGAL PRECEDENT

An employee seeking benefits under FECA³ has the burden of proof to establish the essential elements of their claim, including that any disability or specific condition for which compensation is claimed is causally related to the employment injury.⁴ For each period of disability claimed, the employee has the burden of proof to establish that they were disabled from work as a result of the accepted employment injury.⁵ Whether a particular injury causes an employee to be disabled from employment and the duration of that disability are medical issues, which must be proven by a preponderance of the reliable, probative, and substantial medical evidence.⁶ Findings on examination are generally needed to support a physician's opinion that an employee is disabled from work.⁷

The term "disability" is defined as the incapacity, because of an employment injury, to earn the wages the employee was receiving at the time of the injury.⁸ Disability is, thus, not synonymous with physical impairment, which may or may not result in an incapacity to earn wages.⁹ An employee who has a physical impairment causally related to a federal employment

³ 5 U.S.C. § 8101 *et seq.*

⁴ *M.C.*, Docket No. 18-0919 (issued October 18, 2018); *Kathryn Haggerty*, 45 ECAB 383 (1994); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁵ 20 C.F.R. § 10.501(a); *V.P.*, Docket No. 21-1111 (issued May 23, 2022); *C.E.*, Docket No. 19-1617 (issued June 3, 2020); *William A. Archer*, 55 ECAB 674 (2004).

⁶ *V.H.*, Docket No. 18-1282 (issued April 2, 2019); *Amelia S. Jefferson*, 57 ECAB 183 (2005); *William A. Archer*, *id.*

⁷ *Dean E. Pierce*, 40 ECAB 1249 (1989).

⁸ 20 C.F.R. § 10.5(f); *S.T.*, Docket No. 18-0412 (issued October 22, 2018); *Cheryl L. Decavitch*, 50 ECAB 397 (1999).

⁹ *G.T.*, Docket No. 18-1369 (issued March 13, 2019); *Robert L. Kaaumoana*, 54 ECAB 150 (2002).

injury, but who nevertheless has the capacity to earn the wages he or she was receiving at the time of injury, has no disability as that term is used in FECA.¹⁰

The Board will not require OWCP to pay compensation for disability in the absence of any medical evidence addressing the specific dates of disability for which compensation is claimed. To do so would essentially allow an employee to self-certify his or her disability and entitlement to compensation.¹¹

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish disability from work for the period March 22 through April 21, 2023, causally related to the accepted left knee conditions.

In CA-20 forms dated March 21 and April 18, 2023, Dr. Patel indicated by checking a box marked “Yes” that appellant’s left knee condition had been caused or aggravated by an employment activity. He noted that appellant was totally disabled from March 21 through April 21, 2023, and partially disabled from April 8 through June 19, 2023. The Board has held that a report that indicates causal relationship with a checkmark is of diminished probative value and insufficient to establish causal relationship.¹² In CA-17 forms dated March 21 and April 18, 2023, Dr. Patel diagnosed primary osteoarthritis of the left knee and ACL sprain and noted that appellant was off work from March 21 through April 21, 2023 and April 18 through May 19, 2023. While he noted that appellant was totally disabled, he did not offer a rationalized medical explanation to support his opinion. The Board has held that medical evidence that provides a conclusion, but does not offer a rationalized medical explanation regarding the cause of an employee’s condition or disability is of limited probative value on the issue of causal relationship.¹³ Thus, these reports are insufficient to establish appellant’s claim.

In a Form CA-17 dated April 27, 2023, Dr. Patel diagnosed primary osteoarthritis of the left knee and ACL sprain. He returned appellant to work regular duty six hours per day. However, this report is of no probative value because the physician did not provide an opinion that appellant was disabled from work during the claimed period causally related to the accepted left knee conditions.¹⁴ Rather, the physician returned appellant to work regular duty six hours a day. Therefore, this report is insufficient to establish his claim.

¹⁰ See 20 C.F.R. § 10.5(f); *N.M.*, Docket No. 18-0939 (issued December 6, 2018).

¹¹ See *B.K.*, Docket No. 18-0386 (issued September 14, 2018); *Amelia S. Jefferson*, *supra* note 6; *Fereidoon Kharabi*, 52 ECAB 291, 293 (2001); *see also C.S.*, Docket No. 17-1686 (issued February 5, 2019).

¹² See *S.B.*, Docket No. 24-0064 (issued February 28, 2024); *R.V.*, Docket No. 21-0976 (issued July 18, 2023); *Gary J. Watling*, 52 ECAB 278 (2001); *Lillian M. Jones*, 34 ECAB 379, 381 (1982).

¹³ *C.V.*, Docket No. 18-1106 (issued March 20, 2019); *M.E.*, Docket No. 18-0330 (issued September 14, 2018); *A.D.*, 58 ECAB 149 (2006).

¹⁴ See *F.S.*, Docket No. 23-0112 (issued April 26, 2023); *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

In a note dated April 26, 2023, Dr. Patel described the March 21, 2023 incident with a dog and indicated that any weight-bearing activity and motions such as standing, walking, or working exacerbated his condition. He advised that appellant should be off work to avoid further exacerbation of his injuries. However, Dr. Patel did not discuss the occupational injury which is the subject of this claim. Therefore, this report is insufficient to establish appellant's claim.

In a report dated May 2, 2023, Dr. Patel diagnosed primary osteoarthritis of the left knee and sprain of the left ACL. He opined that appellant's diagnosed conditions were the direct result of performing his usual and customary work duties. In a March 30, 2023 report, Dr. Madsen diagnosed unilateral primary osteoarthritis of the left knee and sprain of the ACL of the right knee. However, these reports are of no probative value because the physicians did not provide an opinion that appellant was disabled from work during the claimed period causally related to the accepted left knee condition.¹⁵ Therefore, these reports are insufficient to establish his claim.

The Board further finds that none of the chiropractic reports from Drs. Sunakapakdee, Haley, and Steele constitute probative medical evidence, because a chiropractor is only considered a physician for purposes of FECA if he or she diagnoses subluxation based upon x-ray evidence.¹⁶ As these chiropractors did not diagnose a spinal subluxation based upon x-ray evidence, they are not considered physicians as defined under FECA and their reports do not constitute competent medical evidence.¹⁷ Thus, these reports are not considered competent medical evidence under FECA.

Appellant also submitted an MRI scan. The Board has held that diagnostic studies, standing alone, lack probative value on the issue of causal relationship as they do not provide an opinion as to whether the employment incident caused any of the diagnosed conditions.¹⁸ This evidence is therefore insufficient to establish appellant's claim.

As the medical evidence is insufficient to establish disability from work for the period March 22 through April 21, 2023, causally related to the accepted left knee conditions, 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.

¹⁵ *Supra* note 14.

¹⁶ Section 8101(2) of FECA provides that the term physician includes chiropractors only if the treatment consists of manual manipulation of the spine to correct a subluxation as demonstrated by x-ray to exist. 5 U.S.C. § 8101(2). See *T.T.*, Docket No. 18-0838 (issued September 19, 2019); *Thomas W. Stevens*, 50 ECAB 288 (1999); *George E. Williams*, 44 ECAB 530 (1993).

¹⁷ *C.S.*, Docket No. 19-1279 (issued December 30, 2019).

¹⁸ *C.B.*, Docket No. 20-0464 (issued July 21, 2020).

CONCLUSION

The Board finds that appellant has not met his burden of proof to establish disability from work for the period March 22 through April 21, 2023, causally related to his accepted left knee conditions.

ORDER

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

Issued: March 19, 2024
Washington, DC

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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

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