

² The Board notes that following the September 5, 2024 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.*

FACTUAL HISTORY

On February 14, 2024 appellant, then a 49-year-old rural carrier, filed a traumatic injury claim (Form CA-1) alleging that on February 7, 2024 he injured his right knee dismounting his vehicle when his foot slipped into the driver's side of the door opening to his long life vehicle while in the performance of duty. He did not stop work.

In a February 17, 2024 report, Dr. Nancy Schaefer, Board-certified in emergency medicine, reported that a week and a half prior to that visit appellant, a postal worker, was getting out of his truck and he tripped inside and twisted and fell on his right knee. Examination of the right knee was essentially normal with slight swelling anteriorly, slight tender lateral knee with no ligamentous instability. Normal range of motion was also reported with minimal pain with flexion. Right knee x-rays of even date revealed minimal degenerative spurring with no evidence of acute osseous abnormality, acute fracture or dislocation. Dr. Schaefer diagnosed acute right knee pain.

In a March 11, 2024 duty status report (Form CA-17) and attending physician's report (Form CA-20), Patrick Shepard, a nurse practitioner, noted the history of the February 7, 2024 slip and fall and diagnosed acute right knee pain. He opined that appellant could work full time with restrictions. In the Form CA-20, Mr. Shepard indicated by checking a box marked "Yes" that the diagnosed condition was causally related to the claimed employment injury.

A May 23, 2024 magnetic resonance imaging scan of the right knee demonstrated mild medial compartment predominant osteoarthritis.

OWCP also received February 23, April 9, and May 28, 2024 reports from Mr. Shepard, along with his referrals and authorizations for physical therapy, and physical therapy reports for the period March 11 to April 9, 2024.

In a July 1, 2024 development letter, OWCP informed appellant of the deficiencies of his claim and advised him of the type of medical evidence needed to establish his claim. It afforded him 60 days to submit the necessary evidence. No additional evidence was received.

In a follow-up letter dated August 2, 2024, OWCP advised appellant that it had conducted an interim review, and the evidence remained insufficient to establish his claim. It noted that he had 60 days from the July 1, 2024 letter to submit the requested supporting evidence. OWCP further advised that if the evidence was not received during this time, it would issue a decision based on the evidence contained in the record. No additional evidence was received.

By decision dated September 5, 2024, OWCP denied appellant's traumatic injury claim, finding that the medical evidence of record was insufficient to establish a right knee condition causally related to the accepted February 7, 2024 employment incident.

LEGAL PRECEDENT

An employee seeking benefits under FECA³ 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

³ *Supra* note 1.

limitation of FECA,⁴ 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.⁵ 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.⁶

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 medical evidence to establish that the employment incident caused an injury.⁷

The medical evidence required to establish causal relationship between a claimed specific condition and an employment incident is rationalized medical opinion evidence.⁸ 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.⁹

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish a right knee condition causally related to the accepted February 7, 2024 employment incident.

In support of his claim, appellant submitted a February 17, 2024 report from Dr. Schaefer, who noted the history of the February 7, 2024 employment incident and provided an assessment of acute right knee pain. The Board notes that pain is a symptom and not a diagnosis.¹⁰ Furthermore, the Board has held that medical evidence that does not offer an opinion regarding

⁴ *E.K.*, Docket No. 22-1130 (issued December 30, 2022); *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).

⁵ *S.H.*, Docket No. 22-0391 (issued June 29, 2022); *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).

⁶ *E.H.*, Docket No. 22-0401 (issued June 29, 2022); *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).

⁷ *H.M.*, Docket No. 22-0343 (issued June 28, 2022); *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).

⁸ *S.M.*, Docket No. 22-0075 (issued May 6, 2022); *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).

⁹ *J.D.*, Docket No. 22-0935 (issued December 16, 2022); *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).

¹⁰ *C.W.*, Docket No. 25-0046 (issued December 19, 2024). Findings of pain or discomfort alone do not satisfy the medical aspect of the fact of injury medical determination. Federal (FECA) Procedure Manual, Part 2 -- Claims, *Fact of Injury*, Chapter 2.803.4a(6) (November 2023); *D.R.*, Docket No. 18-1408 (issued March 1, 2019); *D.A.*, Docket No. 18-0783 (issued November 8, 2018).

the cause of an employee's condition is of no probative value on the issue of causal relationship.¹¹ Therefore, this evidence is insufficient to establish appellant's claim.

Appellant also submitted several progress reports, including March 11, 2024 Forms CA-17 and CA-20, from Mr. Shepard, a nurse practitioner, and progress reports from a physical therapist. However, certain health care providers such as nurse practitioners and physical therapists are not considered physicians as defined under FECA and their reports do not constitute competent medical evidence.¹² Consequently, these medical findings or opinions are insufficient to meet appellant's burden of proof.

The record also contains diagnostic reports dated February 17 and May 23, 2024. The Board has held, however, that diagnostic testing reports, standing alone, lack probative value on the issue of causal relationship as they do not address the relationship between the accepted employment injury and a diagnosed condition.¹³ For this reason, this evidence is also insufficient to meet appellant's burden of proof.

As the medical evidence of record is insufficient to establish a medical condition causally related to the accepted February 7, 2024 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 right knee condition causally related to the accepted February 7, 2024 employment incident.

¹¹ *G.M.*, Docket No. 24-0388 (issued May 28, 2024); *C.R.*, Docket No. 23-0330 (issued July 28, 2023); *K.K.*, Docket No. 22-0270 (issued February 14, 2023); *S.J.*, Docket No. 19-0696 (issued August 23, 2019); *M.C.*, Docket No. 18-0951 (issued January 7, 2019); *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

¹² Section 8101(2) of FECA provides as follows: the term physician includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors and osteopathic practitioners within the scope of their practice as defined by State law. 5 U.S.C. § 8101(2); 20 C.F.R. § 10.5(t). *See* Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3a(1) (May 2023); *David P. Sawchuk*, 57 ECAB 316, 320 n.11 (2006) (lay individuals such as nurses, physician assistants, and physical therapists are not competent to render a medical opinion under FECA). *See also N.C.*, Docket No. 21-0934 (issued February 7, 2022) (nurse practitioners and physical therapists are not considered physicians as defined under FECA).

¹³ *J.A.*, Docket No. 23-0256 (issued December 10, 2024); *W.M.*, Docket No. 19-1853 (issued May 13, 2020); *L.F.*, Docket No. 19-1905 (issued April 10, 2020).

ORDER

IT IS HEREBY ORDERED THAT the September 5, 2024 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: February 4, 2025
Washington, DC

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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