

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

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**G.C., Appellant**

**and**

**DEPARTMENT OF HOMELAND SECURITY,  
CITIZENSHIP & IMMIGRATION SERVICES,  
HOUSTON ASYLUM OFFICE, Houston, TX,  
Employer**

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**Docket No. 25-0104  
Issued: March 4, 2025**

*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  
JANICE B. ASKIN, Judge

**JURISDICTION**

On November 11, 2024, appellant filed a timely appeal from September 10 and July 29, 2024 merit decisions of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act<sup>1</sup> (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.<sup>2</sup>

**ISSUES**

The issues are: (1) whether appellant has met her burden of proof to expand the acceptance of her claim to include chondromalacia patella and unilateral post-traumatic osteoarthritis of the

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<sup>1</sup> 5 U.S.C. § 8101 *et seq.*

<sup>2</sup> The Board notes that, following the September 10, 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.*

right knee as causally related to her accepted July 28, 2020 employment injury; and (2) whether OWCP properly denied authorization for physical therapy.

### **FACTUAL HISTORY**

On July 28, 2020, appellant, then a 63-year-old asylum officer, filed a traumatic injury claim (Form CA-1) alleging that, on July 28, 2020, she injured her right arm and ankle when she tripped on a mat and fell at the entrance to the employing establishment while in the performance of duty.<sup>3</sup> OWCP accepted the claim for sprain of the ligaments of the cervical and thoracic areas of the spine, right shoulder joint sprain, left hip sprain, bilateral knee sprains, and sprain of the ligament of the left ankle.

Appellant's first session of physical therapy after her accepted July 28, 2020 injury occurred on August 3, 2020.

A magnetic resonance imaging (MRI) scan of the right knee obtained on October 9, 2020 demonstrated grade 4 chondromalacia involving the lateral patellar facet; a small joint effusion; and a popliteal cyst.

On March 10, 2021, appellant submitted a note from Dr. Charles Willis, II, a Board-certified anesthesiologist, requesting OWCP's authorization for physical therapy.

In a development letter dated July 23, 2021, OWCP informed appellant that the evidence of record was insufficient to establish that the proposed physical therapy was necessary to treat the effects of her accepted employment-related conditions. It requested that she provide a letter of medical necessity and rationale to support continued treatment and why she was unable to perform her regular duties. OWCP afforded appellant 30 days to submit the requested medical evidence.

On January 20, 2022, OWCP referred appellant, along with the case record, a statement of accepted facts (SOAF), and a series of questions, to Dr. Vinod Panchbhavi, a Board-certified orthopedic surgeon, for a second opinion examination to determine appellant's disability status and need for further medical treatment for treatment of her accepted conditions.

In a January 27, 2022 report, Dr. Panchbhavi noted that appellant's subjective complaints corresponded with objective findings on physical examination. He indicated that the diagnoses causally related to her accepted July 28, 2020 injury included sprains of the cervical and thoracic areas of the spine, right shoulder, left hip, left ankle, and both knees. Dr. Panchbhavi opined that appellant's work-related conditions had resolved, except for her right knee condition, for which she had not yet reached maximum medical improvement (MMI). He further noted that medical recovery for her right knee condition was expected with continued physical therapy for at least an

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<sup>3</sup> OWCP assigned the present claim OWCP File No. xxxxxx100. Under OWCP File No. xxxxxx577, appellant filed a Form CA-1 alleging that on June 10, 2020 she sustained right arm pain radiating to her neck when she twisted to pick up a heavy file while in the performance of duty. OWCP accepted the claim for sprain of the ligaments of the cervical and thoracic spine, sprain of the right shoulder girdle, and strain of the muscle, fascia, and tendon(s) of the right biceps. Appellant's claims have been administratively combined, with OWCP File No. xxxxxx100 serving as the master file.

additional two to three months. Dr. Panchbhavi opined that appellant was capable of working full-duty without restrictions.

On January 25, 2024, Dr. Robert C. Lowry, appellant's treating physician, a specialist in physical medicine and rehabilitation, examined appellant for complaints of intermittent right knee pain. On physical examination of the right knee, he observed tenderness to palpation along the right distal quadriceps, normal range of motion with pain on full knee flexion, and a positive valgus test. Dr. Lowry recommended continuation of physical therapy from January 25 through February 22, 2024 for treatment of appellant's accepted condition of right knee sprain. He explained that she continued to suffer functional deficits, including decreased range of motion and strength, and that the functional goals of the continued physical therapy would be to increase range of motion, strength, and overall physical function, while decreasing adhesions.

In a development letter dated February 14, 2024, OWCP informed appellant that the evidence of record was insufficient to establish that the request for ongoing physical therapy should be authorized. It stated that she had been participating in ongoing physical therapy since August 13, 2020. OWCP requested that appellant provide a detailed narrative medical report describing the injury-related medical residuals found on current physical examination, including a medical explanation for the necessity of prolonged intensive physical therapy, a description of the specific modalities prescribed and how they would address her level of disability, and a statement of progress made in her functional abilities attributable to the extended physical therapy already provided. It afforded her 30 days to submit the requested medical evidence.

On March 20, 2024, Dr. Lowry diagnosed right knee sprain and continued to recommend physical therapy.

On May 1, 2024, Dr. Lowry diagnosed right knee sprain, and further stated that appellant had developed osteoarthritis due to an earlier work-related injury.

In a letter dated May 23, 2024, Dr. Lowry noted that OWCP had accepted right knee sprain related to appellant's accepted July 28, 2020 injury. He recommended that appellant's accepted diagnoses include right knee chondromalacia patella and unilateral post-traumatic osteoarthritis. Dr. Lowry explained that he based this recommendation on the May 11, 2024 MRI scan, the nature of her traumatic injury, and her worsening condition as suggested by appellant's ongoing complaints, symptoms, and objective findings. He noted that the diagnosis of chondromalacia patellae constitutes the breakdown of cartilage on the underside of the patella, when the patella rubs against other adjacent bones, it results in pain. Dr. Lowry explained that chondromalacia was usually an expression of overuse or trauma, which, if not effectively treated, contributes to knee joint osteoarthritis, as in the case of appellant's condition. He cited research indicating that post-traumatic arthritis may develop after an acute direct trauma to the joints. Dr. Lowry opined that the accepted July 28, 2020 employment injury was significantly correlated with post-traumatic arthritis and the findings of right knee chondromalacia on MRI scan.

By decision dated May 28, 2024, OWCP denied authorization for physical therapy, finding that the medical evidence of record did not support the necessity of ongoing physical therapy as a result of her accepted work-related injury, as it did not contain a medical explanation for the necessity of prolonged physical therapy, a description of the specific modalities prescribed and how they would address her level of disability, and a statement of progress made in her functional abilities attributable to the extended physical therapy already provided.

OWCP subsequently received a May 11, 2024 MRI scan of the right knee, which demonstrated grade 3 chondromalacia along the lateral patellar facet with a 4 to 5 millimeter (mm) cystic osteochondral lesion versus subchondral degenerative cyst along the lateral patellar facet; and a thin longitudinal intrasubstance fissure at the mid-to-distal anterior cruciate ligament (ACL), superimposed on minimal mucoid degeneration of the ACL.

In a report dated June 12, 2024, Dr. Lowry related that appellant was seen for right knee pain. On physical examination, he observed crepitus with passive range of motion and a positive compression test. Dr. Lowry diagnosed right knee sprain.

In a development letter dated June 17, 2024, OWCP informed appellant that after review of Dr. Lowry's May 23, 2024 letter, the evidence of record remained insufficient to support that appellant's chondromalacia and degeneration of the ACL were causally related to her accepted July 28, 2020 injury.

On June 18, 2024, appellant requested reconsideration of OWCP's May 28, 2024 decision. With the request, she submitted a June 17, 2024 report, wherein Dr. Lowry related that he examined her for complaints of continued right knee pain. Dr. Lowry further related that physical therapy had helped appellant keep it under control and at full-duty work status. Appellant stated that when she missed physical therapy appointments, the pain worsened. On physical examination of the right knee on June 12, 2024, Dr. Lowry observed crepitus with passive range of motion and a positive compression test. He noted that appellant's last documented physical therapy evaluation was completed on January 25, 2024 and that there were physical therapy notes dated January 29 and February 12, 2024. Dr. Lowry explained that physical therapy has been proven effective for degenerative conditions such as chondromalacia in reduction of symptoms and improvement of physical function. He noted that medical literature demonstrated that 150 minutes per week of moderate intensity aerobic exercise or two days per week of moderate-to-vigorous muscle strengthening exercises were beneficial for individuals with knee conditions such as osteoarthritis or chondromalacia. Dr. Lowry stated that the best exercises for appellant's knee conditions focused on the ability to move efficiently and effectively and on strengthening the knee muscles, as well as those surrounding the knee. In practice, these exercises would include use of a treadmill or stationary bicycle, use of resistance bands for muscle strengthening and improvement of range of motion, and simulated activities of daily living such as step exercises. Dr. Lowry noted that due to the extent of appellant's injuries, as well as other factors such as her age and ability to heal, progress had been slow, but that the goals of increased range of motion and increased strength could be established within the next 6 to 12 weeks with approval of physical therapy. He further noted that he was not confident at that time that appellant could perform home exercises without supervision in order to treat her conditions.

By decision dated June 24, 2024, OWCP denied modification of its May 28, 2024 denial of authorization for physical therapy.

On June 28, 2024, appellant again requested expansion of the acceptance of her claim to include additional conditions as work related.

In a report dated July 10, 2024, Dr. Lowry noted complaints of constant right knee discomfort. He indicated that OWCP had denied ongoing physical therapy and acceptance of right knee osteoarthritis as work related. Dr. Lowry noted appellant's accepted diagnosis of right knee sprain.

By decision dated July 29, 2024, OWCP denied the expansion of the acceptance of appellant's claim to include consequential conditions of right knee chondromalacia patella and unilateral post-traumatic osteoarthritis, finding that the medical evidence of record was insufficient to establish that these diagnosed conditions were causally related to her accepted July 28, 2020 employment injury.

On August 21, 2024, Dr. Lowry examined appellant for complaints of worsening right knee soreness. On physical examination, he observed crepitus and pain with patellar and compression testing. Dr. Lowry diagnosed right knee sprain.

In a report dated August 26, 2024, Dr. Lowry stated that the October 9, 2020 MRI scan mentioned in his November 29, 2023 report was for the left knee, and he requested that his mention of this scan be disregarded. He further noted that it appeared that appellant did not receive a right knee x-ray or MRI scan in 2020. Dr. Lowry stated that a knee sprain is an injury of the knee ligaments connected to the knee joint. If the integrity of the joint were left vulnerable, he noted, it could and often did lead to significant aggravation of the joint complex with advancing wear and tear. Dr. Lowry opined that this pathophysiological process occurred to appellant's right knee joint, such that her development of right knee osteoarthritis was aggravated by her accepted July 28, 2020 injury. He stated that if appellant had not sustained a right knee sprain, she may or may not have developed right knee osteoarthritis, but that her age was also a factor, and that she would have likely developed the osteoarthritis in any event. However, Dr. Lowry further opined that the July 28, 2020 injury aggravated her right knee joint complex and reduced the integrity of the knee, resulting in symptomatic right knee osteoarthritis. He cited research indicating that individuals with a history of knee joint trauma are three to six times more likely to develop knee osteoarthritis and are diagnosed approximately ten years earlier than individuals without a history of joint trauma. Dr. Lowry stated that risk factors for osteoarthritis included joint injury, specific metabolic diseases, genetics, and sociodemographic factors such as age and sex or gender. With regard to appellant, he noted that she had three of these risk factors. Dr. Lowry requested that OWCP expand the acceptance of appellant's claim to include right knee chondromalacia and unilateral post-traumatic osteoarthritis. He reiterated that chondromalacia was usually an expression of overuse or trauma, and that if not effectively treated, changes to the cartilage on the underside of the patella could contribute to osteoarthritis, stating that this pathophysiological process occurred in appellant's case. Dr. Lowry noted that appellant displayed most of the symptoms and complaints associated with post-traumatic osteoarthritis and stated that she had not been able to progress in her treatment due to the exclusion of that condition as work related. He further noted that injury to a joint could express the appearance of damage from as soon as the injury occurred up until five years after the injury was sustained.

By decision dated September 10, 2024, OWCP denied modification of its June 24, 2024 denial of authorization for physical therapy.

### **LEGAL PRECEDENT -- ISSUE 1**

When an employee claims that a condition not accepted or approved by OWCP was due to an employment injury, he or she bears the burden of proof to establish that the condition is causally related to the employment injury.<sup>4</sup>

The medical evidence required to establish causal relationship between a specific condition, and the employment injury is rationalized medical opinion evidence. The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the additional diagnosed condition and the accepted injury.<sup>5</sup>

### **ANALYSIS -- ISSUE 1**

The Board finds that appellant has not met her burden of proof to expand the acceptance of her claim to include chondromalacia patella and unilateral post-traumatic osteoarthritis of the right knee as causally related to her accepted July 28, 2020 employment injury.

On May 1, 2024, Dr. Lowry diagnosed right knee sprain, and further stated that appellant had developed osteoarthritis due to an earlier work-related injury. On May 23, 2024, he noted that OWCP had accepted right knee sprain related to appellant's accepted July 28, 2020 injury. Dr. Lowry recommended that appellant's accepted diagnoses be expanded to include right knee chondromalacia patella and unilateral post-traumatic osteoarthritis. He explained that he based this recommendation on the May 11, 2024 MRI scan, the nature of her traumatic injury, and her worsening condition as suggested by appellant's ongoing complaints, symptoms, and objective findings. Dr. Lowry generally opined that the accepted July 28, 2020 employment injury was significantly correlated with post-traumatic arthritis and the findings of right knee chondromalacia on MRI scan.

The Board has held that a medical opinion that does not offer a medically-sound and rationalized explanation by the physician of how the specific employment incident physiologically caused or aggravated the diagnosed conditions is of limited probative value.<sup>6</sup> Dr. Lowry's May 1 and 23, 2024 opinions as to right knee chondromalacia patella and unilateral post-traumatic osteoarthritis did not contain a sufficiently-rationalized pathophysiological explanation of how the accepted July 28, 2020 incident specifically resulted in aggravation of these conditions. As such, this evidence is insufficient to establish expansion of the acceptance of her claim.

On January 25, 2024, Dr. Lowry observed tenderness to palpation along the right distal quadriceps, normal range of motion with pain on full knee flexion, and a positive valgus test on physical examination of the right knee. On March 20 and June 12, 2024, he diagnosed right knee sprain. On June 12, 2024, Dr. Lowry examined appellant for right knee pain. On June 17, 2024,

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<sup>4</sup> *Y.B.*, Docket No. 22-0121 (issued November 19, 2024); *J.R.*, Docket No. 20-0292 (issued June 26, 2020); *W.L.*, Docket No. 17-1965 (issued September 12, 2018); *V.B.*, Docket No. 12-0599 (issued October 2, 2012); *Jaja K. Asaramo*, 55 ECAB 200, 204 (2004).

<sup>5</sup> *Y.B.*, *id.*; *see also E.J.*, Docket No. 09-1481 (issued February 19, 2010).

<sup>6</sup> *J.B.*, Docket No. 21-0011 (issued April 20, 2021); *A.M.*, Docket No. 19-1394 (issued February 23, 2021).

he related that he examined appellant for complaints of continued right knee pain and recommended continued physical therapy. On July 10, 2024, Dr. Lowry noted appellant's accepted diagnosis of right knee sprain. However, in these reports, he did not offer an opinion regarding the cause of any aggravation of appellant's chondromalacia patella and unilateral post-traumatic osteoarthritis of the right knee. The Board has held that an opinion which does not address the cause of an employee's condition is of no probative value on the issue of causal relationship.<sup>7</sup> Thus, this evidence is insufficient to establish expansion of the acceptance of the claim.

Appellant also submitted diagnostic reports detailing the results of MRI scans. The Board has held that diagnostic reports, standing alone, lack probative value on the issue of causal relationship as they do not provide an opinion as to whether the accepted employment incident caused a diagnosed condition.<sup>8</sup>

As appellant has not submitted rationalized medical evidence establishing causal relationship between her claimed aggravation of chondromalacia patella and unilateral post-traumatic osteoarthritis of the right knee and accepted July 28, 2020 employment injury, the Board finds that appellant has not met her burden of proof.

### **LEGAL PRECEDENT -- ISSUE 2**

Section 8103 of FECA<sup>9</sup> provides for the furnishing of services, appliances, and supplies prescribed or recommended by a qualified physician which OWCP, under authority delegated by the Secretary, considers likely to cure, give relief, reduce the degree or the period of disability, or aid in lessening the amount of monthly compensation.<sup>10</sup> In interpreting this section of FECA, the Board has recognized that OWCP has broad discretion in approving services provided under section 8103, and the only limitation on OWCP's authority is that of reasonableness.<sup>11</sup>

While OWCP is obligated to pay for treatment of employment-related conditions, appellant has the burden of proof to establish that the expenditure is incurred for treatment of the effects of an employment-related injury or condition.<sup>12</sup> In order to prove that the procedure is warranted, appellant must establish that the procedure was for a condition causally related to the employment injury and that the procedure was medically warranted. Both of these criteria must be met in order

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<sup>7</sup> *G.M.*, Docket No. 24-0388 (issued May 28, 2024); *C.R.*, Docket No. 23-0330 (issued July 28, 2023); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

<sup>8</sup> *R.H.*, Docket No. 24-0711 (issued August 22, 2024); *W.M.*, Docket No. 19-1853 (issued May 13, 2020).

<sup>9</sup> *Supra* note 1.

<sup>10</sup> 5 U.S.C. § 8103(a); *see C.G.*, Docket No. 20-0784 (issued May 11, 2021); *M.P.*, Docket No. 19-1557 (issued February 24, 2020); *M.B.*, 58 ECAB 588 (2007).

<sup>11</sup> *B.I.*, Docket No. 18-0988 (issued March 13, 2020); *see also Daniel J. Perea*, 42 ECAB 214, 221 (1990) (abuse of discretion by OWCP is generally shown through proof of manifest error, clearly unreasonable exercise of judgment, or administrative actions which are contrary to both logic, and probable deductions from established facts).

<sup>12</sup> *J.M.*, Docket No. 20-0565 (issued November 5, 2020); *see R.M.*, Docket No. 19-1319 (issued December 10, 2019); *Debra S. King*, 44 ECAB 209 (1992); *Zane H. Cassell*, 32 ECAB 1537, 1540-41 (1981).

for OWCP to authorize payment.<sup>13</sup> Abuse of discretion is shown through proof of manifest error; clearly unreasonable exercise of judgment, or actions taken which are contrary to both logic and probable deductions from established facts. It is not enough to merely show that the evidence could be construed so as to produce a contrary factual conclusion.<sup>14</sup>

### **ANALYSIS -- ISSUE 2**

The Board finds that OWCP properly denied authorization for physical therapy.

On March 10, 2021, Dr. Willis requested authorization for physical therapy. However, his report is of no probative value as it did not provide an opinion regarding appellant's need for continuing physical therapy for her accepted right knee condition.<sup>15</sup>

On January 27, 2022, Dr. Panchbhavi, OWCP's second opinion physician, opined that appellant's work-related conditions had resolved, except for her right knee condition, for which she had not yet reached MMI. He further noted that medical recovery for her right knee condition was expected with continued physical therapy for at least an additional two to three months.

On January 25, 2024, Dr. Lowry recommended continuation of physical therapy from January 25 through February 22, 2024 for treatment of appellant's accepted condition of right knee sprain. On March 10, 2024, he continued to recommend physical therapy. In a June 17, 2024 report, Dr. Lowry noted that appellant's last documented physical therapy evaluation was completed on January 25, 2024 and that there were physical therapy notes dated January 29 and February 12, 2024. He stated that due to the extent of appellant's injuries, as well as other factors such as her age and ability to heal, progress had been slow, but that the goals of increased range of motion and increased strength could be established within the next six to twelve weeks with approval of physical therapy.

As noted above, the only restriction on OWCP's authority to authorize medical treatment is one of reasonableness.<sup>16</sup> The medical evidence of record is insufficient to demonstrate abuse of discretion on the part of OWCP in denial of authorization for continued physical therapy in 2024 for appellant's accepted conditions.<sup>17</sup> The Board thus finds that OWCP properly denied her request for authorization for continued physical therapy.

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.

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<sup>13</sup> *P.L.*, Docket No. 20-0392 (issued October 28, 2020); *see T.A.*, Docket No. 19-1030 (issued November 22, 2019); *Cathy B. Millin*, 51 ECAB 331, 333 (2000).

<sup>14</sup> *See J.K.*, Docket No. 20-1313 (issued May 17, 2021); *D.S.*, Docket No. 18-0353 (issued February 18, 2020); *E.L.*, Docket No. 17-1445 (issued December 18, 2018); *L.W.*, 59 ECAB 471 (2008); *P.P.*, 58 ECAB 673 (2007); *Daniel J. Perea*, *supra* note 13.

<sup>15</sup> *K.M.*, Docket No. 23-0446 (issued September 26, 2023).

<sup>16</sup> *Supra* note 12.

<sup>17</sup> *See supra* note 15.



### **CONCLUSION**

The Board finds that appellant has not met her burden of proof to expand the acceptance of her claim to include chondromalacia patella and unilateral post-traumatic osteoarthritis of the right knee as causally related to her accepted July 28, 2020 employment injury. The Board further finds that OWCP properly denied authorization for physical therapy.

### **ORDER**

**IT IS HEREBY ORDERED THAT** the July 29 and September 10, 2024 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: March 4, 2025  
Washington, DC

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

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

Janice B. Askin, Judge  
Employees' Compensation Appeals Board