United States Department of Labor
Employees' Compensation Appeals Board

D.C., Appellant	)	
and	)	**Docket No. 25-0285**
	)	**Issued: March 12, 2025**
U.S. POSTAL SERVICE, QUINCY POST OFFICE, Quincy, IL, Employer	)	

Appearances:
Alan J. Shapiro, Esq., for the appellant[1]
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
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On January 31, 2025 appellant, through counsel, filed a timely appeal from a January 13, 2025 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act[2] (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.[3]

[1] In all cases in which a representative has been authorized in a matter before the Board, no claim for a fee for legal or other service performed on appeal before the Board is valid unless approved by the Board. 20 C.F.R. § 501.9(e). No contract for a stipulated fee or on a contingent fee basis will be approved by the Board. *Id.* An attorney or representative's collection of a fee without the Board's approval may constitute a misdemeanor, subject to fine or imprisonment for up to one year or both. *Id.*; *see also* 18 U.S.C. § 292. Demands for payment of fees to a representative, prior to approval by the Board, may be reported to appropriate authorities for investigation.

[2] 5 U.S.C. § 8101 *et seq*.

[3] The Board notes that, following the January 13, 2025 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 her burden of proof to expand the acceptance of her claim to include a left knee condition as causally related to, or as a consequence of, her accepted September 16, 2020 employment injury.

FACTUAL HISTORY

On September 30, 2020 appellant, then a 47-year-old city carrier, filed a traumatic injury claim (Form CA-1) alleging that she strained her right knee on September 16, 2020 when she stepped into a hole and twisted her knee while in the performance of duty.[4] OWCP accepted the claim for tear of the anterior cruciate ligament (ACL) of the right knee, and tear of the medial meniscus of the right knee.

In a May 10, 2022 report, Dr. Josue Acevedo, an orthopedic surgeon, related appellant's complaints of left knee pain and intermittent catching that had recently worsened, with no trauma or injury. On examination of the left knee, he observed mild effusion, mild valgus deformity, and medial joint line pain. Dr. Acevedo noted that recent x-rays revealed mild medial joint space narrowing with slight lateral patellar translation. He administered an intra-articular injection to the left knee.

In a June 16, 2022 report, Dr. Acevedo related appellant's two-month history of severe left knee pain with multiple emergency department visits for pain relief medication. He noted findings on examination of medial meniscal tear without instability. A magnetic resonance imaging (MRI) scan of the left knee demonstrated a complex medial meniscal tear, subchondral impaction fracture of the medial femoral condyle, grade 1 medial collateral ligament (MCL) sprain, mild-to-moderate ACL tear, possible medial patellofemoral (MFPL) tear, and bone marrow edema. Dr. Acevedo recommended arthroscopic medial meniscus repair.

In reports dated July 26 and August 23, 2022, Dr. Acevedo noted appellant's continued left knee symptoms and reiterated previous diagnoses. He prescribed physical therapy.

In an August 30, 2022 physical therapy evaluation, Yvonne Robison, a physical therapist, related that appellant underwent right ACL repair in September 2021 and developed left knee pain in approximately January 2022.

In a September 20, 2022 report, Dr. Acevedo indicated that appellant's right knee had become more painful "as a result of overuse and compensation because of her contralateral left knee pain." He recommended left ACL reconstruction with quadriceps autograft and internal brace.

On November 14, 2022, appellant requested that OWCP expand the acceptance of her claim to include a left knee condition.

[4] On September 22, 2021, appellant underwent right anterior cruciate ligament reconstruction.

Thereafter, OWCP received an October 27, 2022 report signed by Nicolette Haubrich, an advanced practice registered nurse (APRN).[5]

In a development letter dated November 16, 2022, OWCP informed appellant of the deficiencies of her claim for expansion. It advised her of the type of medical evidence necessary and afforded her 30 days to respond. No additional evidence was received.

By decision dated December 30, 2022, OWCP denied appellant's request to expand the acceptance of her claim to include a consequential left knee injury. It found that the medical evidence of record was insufficient to establish causal relationship between the additional diagnosed condition(s) and the accepted September 16, 2020 employment injury.

On January 12, 2023 appellant, through counsel, requested an oral hearing before a representative of OWCP's Branch of Hearings and Review.

On January 16, 2023, appellant underwent arthroscopic left ACL repair, partial medial meniscectomy, patellofemoral chondroplasty, and medial femoral condyle chondroplasty. OWCP received progress reports, duty status reports (Form CA-17), and work restrictions by Dr. Acevedo dated January 20 through May 23, 2023.

A hearing was held on July 19, 2023.

By decision dated September 14, 2023, OWCP's hearing representative affirmed the December 30, 2022 decision.

Thereafter, OWCP received an August 19, 2023 emergency department report and work slip, wherein Dr. Mark R. Baker, Board-certified in emergency medicine, related a history of bilateral knee pain and surgery, with severe left knee pain. He prescribed medication.

In a September 8, 2023 emergency department report, Dr. Antony S. Wollaston, Board-certified in emergency medicine, related appellant's symptoms of severe left knee pain. He obtained left knee x-rays, which revealed joint effusion and postsurgical changes. A duplex venous doppler of the bilateral lower extremities was negative for deep venous thrombosis. Dr. Wollaston administered an injection.

In a September 19, 2023 report, Dr. Acevedo related appellant's increased left knee symptoms with carrying mail while at work. He obtained left knee x-rays, which revealed increased arthritic changes since the January 16, 2023 surgery.

In a December 12, 2023 report, Dr. Acevedo related that appellant underwent an OWCP-authorized right ACL repair in September 2021. "During the recovery process, [appellant] had increased pain and instability in left knee and it was confirmed by MRI that she had a left ACL tear."

OWCP received an April 15, 2024 report by Andell William, an APRN.

[5] OWCP also received physical therapy notes dated November 14 through 22, 2022

OWCP also received a June 10, 2024 work slip signed by Dena Ohnamus, a licensed practical nurse (LPN).

On June 14, 2024, appellant, through counsel, requested reconsideration.

By decision dated June 17, 2024, OWCP denied modification of its prior decision.

On January 3, 2025, appellant, through counsel, requested reconsideration.

Thereafter, OWCP received a June 10, 2024 report, wherein Dr. Darr Leutz, a Board-certified orthopedic surgeon, related appellant's symptoms of bilateral knee pain. He diagnosed osteoarthritis and primary localized osteoarthritis of both knees.

In a June 20, 2024 emergency department report, Dr. James Toben Vandenberg, Board-certified in emergency medicine, stated an impression of bilateral knee pain and arthritis.

In a June 22, 2024 report, Dr. Brian R. Snyder, an osteopath and Board-certified family practitioner, noted that appellant was awaiting right knee replacement. He diagnosed bilateral knee osteoarthritis.

December 12, 2023 x-rays revealed moderate-to-severe, right greater than left knee, osteoarthritis and postoperative changes with hardware in the bilateral knee joints.

By decision dated January 13, 2025, OWCP denied modification of its prior decision.

LEGAL PRECEDENT

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.[6] To establish causal relationship between a specific condition, as well as any attendant disability claimed, and the employment injury, an employee must submit rationalized medical evidence.[7] 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 diagnosed condition and the specific employment factors identified by the claimant.[8]

The claimant bears the burden of proof to establish a claim for any consequential injury.[9] In discussing the range of compensable consequences, once the primary injury is causally connected with the employment, the question is whether compensability should be extended to a

[6] *M.M.*, Docket No. 19-0951 (issued October 24, 2019); *Jaja K. Asaramo*, 55 ECAB 200, 204 (2004).

[7] *See V.A.*, Docket No. 21-1023 (issued March 6, 2023); *M.W.*, 57 ECAB 710 (2006); *John D. Jackson*, 55 ECAB 465 (2004).

[8] *E.P.*, Docket No. 20-0272 (issued December 19, 2022); *I.J.*, 59 ECAB 408 (2008).

[9] *V.K.*, Docket No. 19-0422 (issued June 10, 2020); *A.H.*, Docket No. 18-1632 (issued June 1, 2020); *I.S.*, Docket No. 19-1461 (issued April 30, 2020).

subsequent injury or aggravation related in some way to the primary injury.[10] The basic rule is that a subsequent injury, whether an aggravation of the original injury or a new and distinct injury, is compensable if it is the direct and natural result of a compensable primary injury, unless it is the result of an independent intervening cause attributable to the claimant's own conduct.[11]

ANALYSIS

The Board finds that appellant has not met her burden of proof to expand the acceptance of her claim to include a left knee condition as causally related to, or as a consequence of, her accepted September 16, 2020 employment injury.

Dr. Acevedo, in reports dated May 10, 2022 through September 19, 2023, diagnosed osteoarthritis, complex meniscal tear, MCL sprain, ACL tear, possible MFPL tear, and subchondral impaction fracture of the medial femoral condyle of the left knee. In a December 12, 2023 report, he indicated that during recovery from September 2021 right ACL repair, appellant experienced increased pain and instability in the left knee, later diagnosed as a left ACL tear. Dr. Acevedo did not, however, explain with sufficient rationale how the accepted September 16, 2020 right knee employment injury caused the diagnosed left knee conditions.[12] A medical report is of limited probative value on the issue of causal relationship if it contains an opinion regarding causal relationship, which is unsupported by medical rationale.[13] For this reason, Dr. Acevedo's reports are insufficient to establish expansion of the claim.[14]

Dr. Baker, in his August 19, 2023 report, and Dr. Wollaston, in his September 8, 2023 report, related appellant's symptoms of left knee pain. Dr. Leutz, in his June 10, 2024 report, Dr. Vandenberg, in his June 20, 2024 report, and Dr. Snyder, in his June 22, 2024 report, diagnosed arthritis of both knees. However, these reports did not provide an opinion as to how appellant's left knee condition was physiologically a consequence of her accepted September 16, 2020 right knee employment injury. As such, these treatment notes are insufficient to establish expansion of the claim.[15]

OWCP also received reports from a physical therapist, APRNs, and an LPN. The Board has held that medical reports signed solely by a physical therapist or nurse are of no probative value, as such healthcare providers are not considered physicians as defined under FECA, and

[10] *K.S.*, Docket No. 25-0061 (issued January 30, 2025); *J.A.*, Docket No. 23-0256 (issued December 10, 2024); *K.S.*, Docket No. 17-1583 (issued May 10, 2018).

[11] *A.M.*, Docket No. 18-0685 (issued October 26, 2018); *Mary Poller*, 55 ECAB 483, 487 (2004).

[12] *See C.B., (S.B)*, Docket No. 19-1629 (issued April 7, 2020); *V.T.*, Docket No. 18-0881 (issued November 19, 2018); *S.E.*, Docket No. 08-2214 (issued May 6, 2009); *T.M.*, Docket No. 08-0975 (issued February 6, 2009).

[13] *J.H.*, Docket No. 24-0415 (issued May 23, 2024); *C.C.*, Docket No. 15-1056 (issued April 4, 2016); *see T.M.*, *id.*; *Roma A. Mortenson-Kindschi*, 57 ECAB 418 (2006); *William C. Thomas*, 45 ECAB 591 (1994).

[14] *G.G.*, Docket No. 25-0103 (issued January 10, 2025); *B.W.*, Docket No. 21-0536 (issued March 6, 2023); *M.M.*, Docket No. 20-1557 (issued November 3, 2021).

[15] *J.A.*, *supra* note 10.

therefore are not competent to provide a medical opinion.[16] Consequently, their medical findings and/or opinions will not suffice for purposes of establishing entitlement to compensation benefits.[17]

OWCP also received diagnostic studies, including a May 24, 2022 MRI scan of the left knee, September 8, 2023 venous doppler study of the lower extremities, and December 12, 2023 x-rays of both knees. The Board has held, however, that diagnostic testing reports, standing alone, lack probative value as they do not address causal relationship between a diagnosed condition and the accepted employment injury.[18] For this reason, this evidence is also insufficient to establish expansion of the claim.[19]

As the medical evidence of record is insufficient to establish a left knee condition as causally related to, or as a consequence of, her accepted September 16, 2020 right knee injury, the Board finds that appellant has not met her burden of proof to expand the acceptance of her claim.

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 and 20 C.F.R. §§ 10.605 through 10.607.

CONCLUSION

The Board finds that appellant has not met her burden of proof to expand the acceptance of her claim to include a left knee condition as causally related to, or as a consequence of, her accepted September 16, 2020 employment injury.

[16] Section 8101(2) of FECA provides that 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 also* Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3a(1) (May 2023); *see David P. Sawchuk*, 57 ECAB 316, 320 n.11 (2006) (lay individuals such as physician assistants, nurses, and physical therapists are not competent to render a medical opinion under FECA). *See also A.C.*, Docket No. 24-0661 (issued September 11, 2024) (medical reports signed solely by a nurse, physician assistant, or physical therapist are of no probative value, as such healthcare providers are not considered physicians as defined under FECA and, therefore, are not competent to provide a medical opinion); *V.R.*, Docket No. 19-0758 (issued March 16, 2021) (a physical therapist is not considered a physician under FECA).

[17] *See C.S.*, Docket No. 20-1354 (issued January 29, 2021); *B.B.*, Docket No. 18-0732 (issued March 11, 2020).

[18] *J.A., supra* note 10; *W.M.*, Docket No. 19-1853 (issued May 13, 2020); *L.F.*, Docket No. 19-1905 (issued April 10, 2020).

[19] *Id*.

ORDER

IT IS HEREBY ORDERED THAT the January 13, 2025 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: March 12, 2025
Washington, DC

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

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

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