

² 5 U.S.C. § 8101 *et seq.*

ISSUE

The issue is whether appellant has met his burden of proof to establish an occupational disease in the performance of duty, as alleged.

FACTUAL HISTORY

On September 1, 2024 appellant, then a 62-year-old³ city delivery specialist, filed an occupational disease claim (Form CA-2) alleging that he developed bilateral knee osteoarthritis due to factors of his federal employment, including prolonged standing, loading, and delivering packages and mail. He noted that he first became aware of his condition on January 2, 2023, and realized its relationship to factors of his federal employment on November 15, 2023. Appellant stopped work on September 4, 2024.

In support of his claim, appellant submitted a treatment summary dated March 3, 2021 by Alan Domack, a physician assistant, who noted that appellant related complaints of worsening bilateral knee pain for approximately 25 years. Appellant indicated that he described two bicycle accidents and that he worked as a postal carrier and experienced “pain while performing his job duties.” Mr. Domack documented physical examination findings and recommended steroid injections.

In a medical note dated June 15, 2022, Brian Parker, a physician assistant, indicated that appellant related knee pain, which was worse with squatting, sitting, walking, bending, and ascending and descending stairs.

In a medical note dated November 21, 2022, Dr. Floyd R. Jaggears, a Board-certified orthopedic surgeon and sports medicine specialist, noted that appellant related significant improvement in his knee pain after injections.

In a medical note dated August 8, 2023, Dr. Adam Almaguer, a Board-certified orthopedic surgeon, noted that appellant related complaints of bilateral knee pain, right worse than left. He administered intra-articular steroid injections and recommended work restrictions including no more than eight hours per day of mail delivery.

In a follow-up note dated November 16, 2023, Dr. Almaguer indicated that appellant wished to proceed with bilateral total knee arthroplasty within the next year.

In a letter dated September 6, 2024, the employing establishment controverted appellant’s claim.

In a September 6, 2024 development letter, OWCP informed appellant of the deficiencies of his claim and advised him of the type of factual and medical evidence necessary to establish his claim. It afforded him 60 days to respond. In a separate development letter of even date, OWCP requested that the employing establishment provide comments from a knowledgeable supervisor

³ On November 5, 2024 OWCP corrected an error in appellant’s Form CA-1 as to his date of birth.

regarding the accuracy of appellant's statements. It afforded the employing establishment 30 days to respond.

In a September 11, 2024 response to OWCP's questionnaire, the employing establishment indicated that appellant's job duties included lifting, pushing, pulling, bending, and stooping. It also noted that he was assigned to a walking route.

In a follow-up letter dated October 7, 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 September 6, 2024 letter to submit the necessary evidence. OWCP further advised that if the necessary was not received during this time, it would issue a decision based on the evidence contained in the record.

OWCP thereafter received a duty status report (Form CA-17) dated October 3, 2024, and a Family and Medical Leave Act healthcare provider certification dated October 25, 2024 by Dr. Thein Quach, a Board-certified anesthesiologist, who opined that appellant was totally disabled due to "wear and tear over 22 years with [employing establishment]."

By decision dated November 20, 2024, OWCP denied appellant's claim, finding that he had not submitted sufficient evidence to establish that the events or incident occurred, as alleged. Consequently, it found that he had not met the requirements to establish an injury as defined by FECA.

OWCP continued to receive evidence.

Dr. Quach, in an October 3, 2024 medical report, noted that appellant related complaints of bilateral knee and back pain, which he attributed to his job duties, including standing for two hours to sort mail, walking six to seven miles per day on his delivery route, and continuously ascending and descending stairs. He performed a physical examination and observed pain and reduced range of motion in the lumbar spine, hips, and knees, a positive straight leg raise test on the right, and crepitus in the knees. Dr. Quach obtained x-rays and diagnosed bilateral genu varus, severe bilateral osteoarthritis of the knees, right hip bursitis, and lumbar levoscoliosis secondary to unequal leg length due to left knee varum. He opined that the conditions were caused or accelerated by appellant's work duties, including long-term repetitive walking.

On December 18, 2024 appellant requested reconsideration of OWCP's November 20, 2024 decision. In support thereof, he submitted a November 12, 2024 medical report by Dr. Quach, who repeated the same complaints, examination findings, and diagnoses and continued to opine that he was totally disabled.

In a December 30, 2024 statement, appellant indicated that he worked 10 to 11 hours per day, six days per week, and his job duties included sorting and loading mail for two hours and then walking seven to nine miles to deliver his route. In 2020, he began to experience knee pain, which worsened over the last four years causing him to limp and require an eight-hour-per-day work restriction. Appellant indicated that he believed his knee condition was caused by the ongoing "wear and tear" associated with his job.

In CA-17 forms dated December 19, 2024 and January 20, 2025, Dr. Quach continued to find appellant totally disabled.

By decision dated March 18, 2025, OWCP denied modification of its November 20, 2024 decision.

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 establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit: (1) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; (2) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; and (3) medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant.⁸

To establish that, an injury occurred as alleged, the injury need not be confirmed by eyewitnesses, but the employee's statements must be consistent with the surrounding facts and circumstances and his or her subsequent course of action. The employee has not met his or her burden when there are such inconsistencies in the evidence as to cast serious doubt on the validity of the claim. Such circumstances as late notification of injury, lack of confirmation of injury, continuing to work without apparent difficulty following the alleged injury, and failure to obtain medical treatment may, if otherwise unexplained, cast serious doubt on the employee's statements in determining whether a *prima facie* case has been established.⁹ An employee's statement

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).

⁸ *S.C.*, Docket No. 18-1242 (issued March 13, 2019); *R.H.*, 59 ECAB 382 (2008).

⁹ *C.M.*, Docket No. 20-1519 (issued March 22, 2021); *Betty J. Smith*, 54 ECAB 174 (2002).

alleging that an injury occurred at a given time and in a given manner is of great probative value and will stand unless refuted by strong or persuasive evidence.¹⁰

ANALYSIS

The Board finds that appellant has met his burden of proof to establish that the employment factors occurred in the performance of duty, as alleged.

Appellant filed a claim alleging that he developed bilateral knee osteoarthritis due to factors of his federal employment, including prolonged standing, loading, and delivering packages. In a statement dated December 30, 2024, he indicated that he worked 10 to 11 hours per day, six days per week, and his job duties included sorting and loading mail for two hours and then walking seven to nine miles to deliver his route. In its September 11, 2024 response to OWCP's questionnaire, the employing establishment indicated that appellant was assigned to a walking route and his job duties also included lifting, pushing, pulling, bending, and stooping. In a treatment summary dated March 3, 2021, Mr. Domack noted that appellant related "pain while performing his job duties." On June 15, 2022 Mr. Parker noted that he related sharp knee pain, which was worse with squatting, sitting, walking, bending, and ascending and descending stairs. In October 3 and November 12, 2024 medical reports, Dr. Quach noted that appellant related complaints for bilateral knee and back pain, which he attributed to his job duties, including standing for two hours to sort mail, walking six to seven miles on his delivery route, and continuously ascending and descending stairs.

Appellant has maintained that his bilateral knee condition was caused by the ongoing wear and tear associated with walking, standing, and loading while performing his job. As noted, an employee's statement alleging that an injury occurred at a given time and place, and in a given manner, is of great probative value and will stand unless refuted by strong or persuasive evidence.¹¹ The employing establishment did not refute appellant's description of his job duties and there are no inconsistencies sufficient to cast serious doubt on the type of duties he alleged that he performed.¹² The Board finds that appellant has met his burden of proof to establish that the employment factors occurred in the performance duty, as alleged.

As appellant has established that the alleged employment factors occurred in the performance of duty as described, the question becomes whether the employment factors caused an injury.¹³ As OWCP found that he had not established fact of injury, it did not evaluate the medical evidence. The case must, therefore, be remanded for consideration of the medical evidence of record.¹⁴ After such further development as deemed necessary, OWCP shall issue a

¹⁰ See *M.C.*, Docket No. 18-1278 (issued March 7, 2019); *D.B.*, 58 ECAB 464, 466-67 (2007).

¹¹ *E.S.*, Docket No. 22-1339 (issued May 16, 2023); *D.B.*, *id.*

¹² See generally *T.A.*, Docket No. 19-1525 (issued March 4, 2020); *J.C.*, Docket No. 18-1803 (issued April 19, 2019); *L.S.*, Docket No. 13-1742 (issued August 7, 2014).

¹³ *L.I.*, Docket No. 20-0599 (issued November 22, 2022); *D.F.*, Docket No. 21-0825 (issued February 17, 2022); *M.A.*, Docket No. 19-0616 (issued April 10, 2020); *C.M.*, Docket No. 19-0009 (issued May 24, 2019).

¹⁴ *L.G.*, Docket No. 21-0343 (issued May 9, 2023); *L.D.*, Docket No. 16-0199 (issued March 8, 2016).

de novo decision addressing whether appellant has met his burden of proof to establish an injury causally related to the accepted employment factors, and any attendant disability.

CONCLUSION

The Board finds that appellant has met his burden of proof to establish that the employment factors occurred in the performance duty, as alleged.

ORDER

IT IS HEREBY ORDERED THAT the March 18, 2025 decision of the Office of Workers' Compensation Programs is reversed. The case is remanded for further proceedings consistent with this decision of the Board.

Issued: September 16, 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