United States Department of Labor
Employees' Compensation Appeals Board

A.W., Appellant	)	
and	)	**Docket No. 13-648**
	)	**Issued: June 4, 2013**
PEACE CORPS, Washington, DC, Employer	)	

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
PATRICIA HOWARD FITZGERALD, Judge
ALEC J. KOROMILAS, Alternate Judge
MICHAEL E. GROOM, Alternate Judge

JURISDICTION

On January 28, 2013 appellant filed a timely appeal of a July 31, 2012 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act[1] (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of the case.

ISSUE

The issue is whether appellant met her burden of proof to establish that she sustained an occupational disease while in the performance of duty.

FACTUAL HISTORY

On May 20, 2012 appellant, then a 25-year-old former Peace Corps volunteer, filed a Form CA-2 alleging that she sustained an occupational disease while she served in Nicaragua. She injured her left knee during a soccer match sometime in February 2011 and was referred for physical therapy. Appellant's condition was subsequently aggravated by the extensive, long-

[1] 5 U.S.C. § 8101 *et seq.*

distance bus travel required to attend the treatment sessions as well as routine walking on uneven terrain. Her tour of duty lasted from July 2010 to May 12, 2012.

An April 14, 2011 left knee magnetic resonance imaging (MRI) scan obtained by Dr. Pablo Barillas Rios, a radiologist in Nicaragua, was normal.

In a May 5, 2011 report, Dr. Dino Aguilar, an orthopedic surgeon in Nicaragua, evaluated appellant and observed clinical signs of meniscal lesion. He diagnosed possible chronic left meniscal lesion. In a June 27, 2011 follow-up report, Dr. Aguilar added that appellant had a history of left knee pain "since more than a year ago." He examined her, elicited medial patellar pain and diagnosed left synovial plica syndrome.

Dr. Stephan L. Pro, a Board-certified orthopedic surgeon in Oregon, related in a July 19, 2011 report that appellant experienced ongoing left knee pain without any specific antecedent trauma for the past two years. Appellant's condition worsened when she adopted soccer as a hobby while in Nicaragua. Physical examination and radiological findings were unremarkable. Dr. Pro diagnosed possible left patellofemoral pain syndrome and recommended physical therapy.[2]

In a March 21, 2012 report, Dr. Mariano Barahona, a Nicaraguan physician, reiterated that appellant had a history of chronic left knee pain for more than two years. Appellant's condition deteriorated following 17 sessions of physical therapy and accompanying bus rides and she exhibited signs of potential lateral meniscal lesion and patellofemoral symptoms. Dr. Barahona reviewed the medical file and noted that the April 14, 2011 left knee MRI scan, which did not show any visible abnormalities, could have nonetheless missed indications of meniscal lesion and patellofemoral inflammation. He diagnosed chronic left knee pain and synovial plica syndrome. In an April 27, 2012 Peace Corps close-of-service evaluation form, Dr. Barahona examined appellant and observed positive McMurray's and Apley's tests.[3]

Dr. Robert H. Sandmeier, a Board-certified orthopedic surgeon in Oregon, advised in a May 14, 2012 report that appellant experienced left knee pain "for many years" and was a former Peace Corps volunteer in Nicaragua, where she "had to do a lot of walking." Appellant's present condition "may have started after a blow to the knee in a soccer game" and was aggravated by lengthy bus rides to her physical therapy sessions. Physical examination and radiological findings were unremarkable. Dr. Sandmeier opined, "I do not believe [appellant's] knee is the source of the pain despite the fact she is feeling pain there."

OWCP informed appellant in a June 26, 2012 letter that additional evidence was needed to establish her claim. It gave her 30 days to submit a report from a qualified physician explaining how work factors caused or contributed to a diagnosed injury. OWCP did not receive a response.

[2] The case record shows that appellant underwent physical therapy in Oregon for the period July 20 to 29, 2011.

[3] Appellant provided additional medical documents for the period July 3, 2010 to May 12, 2012, the information of which was immaterial to the present case or restated in other reports.

By decision dated July 31, 2012, OWCP denied appellant's claim, finding the medical evidence insufficient to establish that the accepted work factors were causally related to a diagnosed injury.

LEGAL PRECEDENT

FECA provides that an injury or illness sustained by a Peace Corps volunteer when he or she is outside the United States shall be presumed to have been sustained while in the performance of duty and proximately caused by federal employment. This presumption may be rebutted by evidence demonstrating that the injury or illness: (1) was caused by the volunteer's willful misconduct or intent to bring about injury to self or another; (2) was proximately caused by the volunteer's intoxication by alcohol or illegal drugs; (3) preexisted the period of service abroad; or (4) manifested symptoms of, or consequent to, a preexisting congenital defect or abnormality.[4] If the presumption is rebutted by evidence showing that the injury or illness preexisted the period of service abroad or manifested symptoms of, or consequent to, a preexisting congenital defect or abnormality, the volunteer may still prove his or her claim and be entitled to compensation if he or she submits substantial, probative and rationalized evidence establishing that the injury or illness was proximately caused or materially aggravated, accelerated or precipitated by factors or conditions of Peace Corps service.[5]

While Peace Corps volunteers are normally entitled to the presumption that an injury or illness sustained while abroad is proximately related to federal employment, the presumption will not arise if no injury or illness is diagnosed. Without a firm medical diagnosis, it is not possible to ascertain whether the condition was preexisting or congenital.[6]

ANALYSIS

Appellant was a Peace Corps volunteer in Nicaragua for the period July 2010 to May 12, 2012. She filed an occupational disease claim for a left knee injury sustained while abroad. Drs. Aguilar, Barahona and Pro diagnosed left synovial plica and patellofemoral pain syndromes. Initially, the presumption arises that appellant, as a Peace Corps volunteer, sustained a work-related injury while in the performance of duty. As noted, this presumption is rebuttable. The case record does not establish that appellant's injury was a preexisting congenital defect or the result of her willful misconduct, intent to bring about injury to herself or another or intoxication by alcohol or illegal drugs; however, Drs. Aguilar, Barahona, Pro and Sandmeier each indicated that she experienced left knee symptoms before her tour of duty commenced in July 2010. Because the medical evidence notes that appellant's condition preexisted her period of service abroad, the presumption is rebutted. Therefore, to establish her claim, she must submit substantial, probative and rationalized evidence proving that her injury was proximately caused or materially aggravated, accelerated or precipitated by work factors.[7]

[4] 5 U.S.C. § 8142(c)(3); 20 C.F.R. § 10.730(a).

[5] 20 C.F.R. § 10.730(b)-(c).

[6] *S.S.*, 59 ECAB 152 (2007).

[7] *Charles S. Hamilton*, 52 ECAB 110, 114-15 (2000).

Rationalized medical opinion evidence is generally required to establish causal relationship. The opinion of the physician must be based on a complete factual and medical background, 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] In this case, the medical evidence does not sufficiently establish that factors of appellant's Peace Corps service caused or contributed to a left knee injury. In March 21 and April 27, 2012 reports, Dr. Barahona opined that her condition worsened due to the bus rides she took to attend 17 physical therapy appointments. Similarly, Dr. Sandmeier stated in a May 14, 2012 report that appellant's left knee pain was aggravated by these lengthy bus rides. Neither Dr. Barahona nor Dr. Sandmeier, however, pathophysiologically explained how walking on uneven terrain or riding a bus aggravated left synovial plica and patellofemoral pain syndromes.[9] In addition, Dr. Pro did not attribute the injury to walking on uneven terrain or riding the bus to attend physical therapy sessions in a July 19, 2011 report. Because he did not discuss the contributing employment factors described by appellant, his report was of diminished probative value on the issue of causal relationship.[10]

The remaining medical evidence, namely Dr. Rios' April 14, 2011 left knee MRI scan report and Dr. Aguilar's May 5 and June 27, 2011 reports, offered limited probative value on the issue of causal relationship because none of these records addressed whether service in the Peace Corps caused or contributed to a left knee condition.[11] In the absence of rationalized medical opinion evidence, appellant failed to meet her burden of proof.

Appellant may submit new evidence or argument as part of a formal 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 did not establish that she sustained an occupational disease while in the performance of duty.

[8] *I.J.*, 59 ECAB 408 (2008).

[9] *Joan R. Donovan*, 54 ECAB 615, 621 (2003); *Ern Reynolds*, 45 ECAB 690, 696 (1994). The Board also notes Dr. Sandmeier's conclusion that appellant's symptoms did not originate from the knee.

[10] *See John W. Montoya*, 54 ECAB 306 (2003).

[11] *J.F.*, Docket No. 09-1061 (issued November 17, 2009); *S.E.*, Docket No. 08-2214 (issued May 6, 2009).

ORDER

IT IS HEREBY ORDERED THAT the July 31, 2012 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: June 4, 2013
Washington, DC

Patricia Howard Fitzgerald, Judge
Employees' Compensation Appeals Board

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

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board