

FACTUAL HISTORY

On October 12, 2011 appellant, then a 40-year-old immigration enforcement agent, filed a traumatic injury claim alleging that on October 29, 2010 he sustained a contusion and calcific tendinitis of the left knee during defensive tactics training. He was thrown to the ground during noncompliant handcuffing techniques and his left knee missed the soft mat and landed on a concrete floor. Appellant submitted a witness statement dated January 25, 2011 from an employee who was involved in the October 29, 2010 incident. He did not stop work

In a January 12, 2011 medical report, Ronald B. Mezick, Jr., a physician's assistant, advised that appellant sustained a contusion of the knee associated with calcific tendinitis. He could engage in normal activities, but was restricted from kneeling to avoid further injury.

The first page of an authorization for examination and/or treatment (Form CA-16) completed by the employing establishment on August 23, 2012 noted that the date of injury was October 29, 2010 and that appellant had a left knee contusion.

On August 23, 2012 appellant filed a claim for a recurrence of disability for medical treatment commencing August 21, 2012 due to his October 29, 2010 injury.

By letter dated August 28, 2012, OWCP advised appellant that initially his injury appeared to be a minor one that resulted in minimal or no lost time from work. Because the employing establishment did not challenge the merits of the case, payment of a limited amount of medical expenses was administratively approved and the merits of the claim for medical treatment had not been formally considered. The claim was reopened for consideration because a recurrence claim for medical treatment had been received. It informed appellant that his recurrence claim could not be considered until the 2010 injury was adjudicated. OWCP further informed him that the evidence submitted was insufficient to establish his claim. Appellant was advised to submit additional medical and factual evidence. OWCP also advised the employing establishment to submit any medical evidence regarding treatment appellant received at its medical facility.

In a statement and letter dated September 4, 2012, appellant described the October 29, 2010 incident, striking his left knee on a concrete floor and forehead and right foot injuries and medical treatment. He noted that he would request his physician to address causal relation.

In a September 6, 2010 report, Julie I. Edkin, a physician's assistant, listed a history of the October 29, 2010 incident, findings on physical examination and diagnosed pain in the lower left leg joint. In a patient order requisition dated September 6, 2010, she ordered physical therapy to treat appellant's left knee pain.

In a September 7, 2012 report, Dr. Stacy J. Castaldi, a Board-certified radiologist, advised that an x-ray of the left knee revealed mild degenerative changes. A fragmented enthesophyte was observed along the upper margin of the tibial tubercle, with stable appearance. Lateral patellar or spurring was present.

By decision dated October 1, 2012, OWCP denied appellant's claim. It found that the October 29, 2010 incident occurred as alleged, but the medical evidence did not provide a firm medical diagnosis causally related to the accepted employment incident.

On October 4, 2012 appellant requested a telephone hearing with an OWCP hearing representative.

In a January 10, 2011 report, Dr. Allen A. Wetzel, a Board-certified family practitioner, listed a history of the October 29, 2010 employment incident and noted appellant's left knee complaints. He listed findings on physical and x-ray examination. Appellant noticed some noisy crunching of the knee that did not interfere with normal activities. Dr. Wetzel diagnosed pain in the lower left leg joint and benign hypertension.

The record contains reports from physical therapists who addressed appellant's treatment from April 14 to October 4, 2012.

A duplicate copy of the September 6, 2012 report from Ms. Edkin was signed by Dr. Daniel D. Feldmann, a Board-certified orthopedic surgeon, on October 5, 2012. In an October 30, 2012 note, Dr. Feldmann stated that he performed a history and physical examination of appellant. He advised that appellant had an asymptomatic Osgood Schlatter condition and mild patellar tendinitis of the left knee.

In reports dated October 5, 2012 and January 28, 2013, Dr. Quinn Kirk, a Board-certified family practitioner, obtained a history of the October 29, 2010 employment incident. He noted appellant's medical treatment and left knee complaints. Dr. Kirk listed findings on physical examination and diagnosed pain in the lower left leg joint. In a January 28, 2013 report, he advised that the diagnosed condition was caused by the October 29, 2010 employment incident.

In an October 25, 2012 clinic note, Dr. Feldmann noted that appellant was seen by Dr. Robert B. Jones, an orthopedic resident, who reviewed a history of the October 29, 2010 employment incident and appellant's medical treatment. Dr. Jones noted appellant's left knee complaints and listed findings on physical and x-ray examination and diagnosed Osgood-Schlatter disease and patellofemoral tendinitis. He stated that both conditions had almost resolved in their entirety. In an October 25, 2012 report, Dr. Jones reiterated his diagnosis of Osgood-Schlatter disease and patellofemoral syndrome. He stated that it appeared these conditions were exacerbated at the time of appellant's fall.

In a March 28, 2013 decision, OWCP's hearing representative affirmed the October 1, 2012 decision while the medical evidence established that appellant sustained a contusion of the left knee due to the accepted October 29, 2010 employment incident, it was insufficient to establish that he sustained patellofemoral syndrome causally related to the accepted employment injury.

LEGAL PRECEDENT

It is an accepted principle of workers' compensation law that, when the primary injury is shown to have arisen out of and in the course of employment, every natural consequence that flows from the injury is deemed to arise out of the employment, unless it is the result of an

independent intervening cause which is attributable to the employee's own intentional conduct.² Regarding the range of compensable consequences of an employment-related injury, *Larson* notes that, when the question is whether compensability should be extended to a subsequent injury or aggravation related in some way to the primary injury, the rules that come into play are essentially based upon the concepts of direct and natural results and of the claimant's own conduct as an independent intervening cause. 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. Thus, once the work-connected character of any condition is established, the subsequent progression of that condition remains compensable so long as the worsening is not shown to have been produced by an independent nonindustrial cause.³

A claimant bears the burden of proof to establish a claim for a consequential injury.⁴ As part of this burden, he or she must present rationalized medical opinion evidence, based on a complete factual and medical background, showing causal relationship. Rationalized medical evidence is evidence, which relates a work incident or factors of employment to a claimant's condition, with stated reasons of a physician. The opinion must be one of reasonable medical certainty and must be supported by medical rationale explaining the nature of the relationship of the diagnosed condition and the specific employment factors or employment injury.⁵

ANALYSIS

OWCP accepted that on October 29, 2010 appellant sustained an employment-related contusion of the left knee. The Board finds that he has not submitted sufficient medical evidence to establish his additional left knee conditions as a consequence of his accepted employment injury.

Dr. Kirk's October 5, 2012 and January 28, 2013 reports provided a history of the accepted October 29, 2010 employment injury. He listed physical examination findings and found that appellant had pain in the lower left leg joint. While Dr. Kirk opined that the left leg condition was caused by the accepted employment injury, he failed to explain how the training incident caused or contributed to appellant's condition. The Board has held that a medical opinion not supported by medical rationale is of little probative value.⁶ The Board also notes that Dr. Kirk did not provide a definitive diagnosis, instead merely diagnosing leg pain. The Board has held that the diagnosis of pain does not constitute the basis for payment

²*Albert F. Ranieri*, 55 ECAB 598 (2004).

³A. Larson, *The Law of Workers' Compensation* § 10.01 (November 2000).

⁴*J.J.*, Docket No. 09-27 (issued February 10, 2009).

⁵*Charles W. Downey*, 54 ECAB 421 (2003).

⁶*Caroline Thomas*, 51 ECAB 451 (2000).

of compensation.⁷ Without more detail and an explanation of how appellant's pain was due to the employment incident, Dr. Kirk's reports are not sufficient to meet appellant's burden of proof.

Dr. Jones' October 25, 2012 clinic note and report found that appellant had Osgood-Schlatter disease and patellofemoral tendinitis of the left knee. He advised that it appeared that the conditions were exacerbated by appellant's fall. While Dr. Jones provided a history of the October 29, 2010 employment injury and findings on physical and x-ray examination, he did not provide a definitive opinion with regards to the cause of the left knee conditions and he couched his opinion in equivocal terms. The Board has held that speculative and equivocal medical opinions regarding causal relationships have no probative value.⁸ Dr. Jones did not explain how the accepted injury caused or aggravated Osgood-Schlatter disease and patellofemoral tendinitis of the left knee. Without a clear statement attributing appellant's conditions to the October 29, 2010 employment injury, his reports are not sufficient to meet appellant's burden of proof.

Similarly, Dr. Castaldi's September 7, 2012 diagnostic test results, Dr. Wetzel's January 10, 2011 report and Dr. Feldmann's September 6, 2012 report and October 30, 2012 notes regarding appellant's left leg are insufficient to establish a consequential injury. None of the physicians provided an opinion addressing whether the diagnosed conditions were caused or contributed to by the October 29, 2010 employment injury. Medical evidence which does not offer any opinion regarding the cause of an employee's condition is of limited probative value.⁹ As noted, Dr. Wetzel's and Dr. Feldmann's diagnosis of left leg joint pain does not constitute a firm diagnosis to support payment of compensation.¹⁰

The September 6, 2010 patient order requisition from Ms. Edkin and January 12, 2011 report from Mr. Mezick, physician's assistants and reports from appellant's physical therapists have no medical probative value in establishing appellant's claim. Neither a physician's assistant nor a physical therapist is a "physician" as defined under FECA.¹¹

The Board finds that there is insufficient rationalized medical evidence of record to establish that appellant's additional left leg conditions are a consequence of his accepted employment injury. Appellant did not meet his burden of proof.

⁷See *C.F.*, Docket No. 08-1102 (issued October 10, 2008) (pain is a symptom, not a compensable medical diagnosis); *Robert Broome*, 55 ECAB 339, 342 (2004).

⁸*Ricky S. Storms*, 52 ECAB 349 (2001) (while the opinion of a physician supporting causal relationship need not be one of absolute medical certainty, the opinion must not be speculative or equivocal; the opinion should be expressed in terms of a reasonable degree of medical certainty).

⁹See *K.W.*, 59 ECAB 271 (2007); *A.D.*, 58 ECAB 149 (2006); *Jaja K. Asaramo*, 55 ECAB 200 (2004); *Michael E. Smith*, 50 ECAB 313 (1999).

¹⁰See cases cited, *supra* note 7.

¹¹See *David P. Sawchuk*, 57 ECAB 316 (2006) (lay individuals such as physician's assistants, nurses and physical therapists are not competent to render a medical opinion under FECA); 5 U.S.C. § 8101(2) (this subsection defines a physician as surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors and osteopathic practitioners within the scope of their practice as defined by State law).

On appeal, appellant contended that he submitted sufficiently rationalized medical evidence to establish that his current patellofemoral syndrome of the left knee was caused by his accepted employment injury. For the reasons stated, the Board finds that he did not submit sufficiently rationalized medical evidence to establish that he sustained an additional left kneecondition that was caused, aggravated or a consequence of the accepted injury.

Appellant may submit new evidence or argument as part of 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 did not sustainan additional left knee condition as a consequence of his October 29, 2010 employment injury.

ORDER

IT IS HEREBY ORDERED THATthe March 28, 2013 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: September 3, 2013
Washington, DC

Richard J. Daschbach, Chief Judge
Employees' Compensation Appeals Board

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

James A. Haynes, Alternate Judge
Employees' Compensation Appeals Board