United States Department of Labor
Employees' Compensation Appeals Board

P.C., Appellant	)	
	)	**Docket No. 13-1984**
and	)	**Issued: January 27, 2014**
	)	
U.S. POSTAL SERVICE, POST OFFICE, San Francisco, CA, Employer	)	

Appearances:
Alan J. Shapiro, Esq., for the appellant
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
RICHARD J. DASCHBACH, Chief Judge
PATRICIA HOWARD FITZGERALD, Judge
MICHAEL E. GROOM, Alternate Judge

JURISDICTION

On August 28, 2013 appellant, through his attorney, filed a timely appeal of a July 11, 2013 merit decision of the Office of Workers' Compensation Programs (OWCP) denying his traumatic injury claim. Pursuant to the Federal Employees' Compensation Act[1] (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction to consider the merits of the case.

ISSUE

The issue is whether appellant met his burden of proof to establish that he sustained a knee injury in the performance of duty on June 14, 2011.

FACTUAL HISTORY

On June 16, 2011 appellant, then a 61-year-old city mail carrier, filed a traumatic injury claim to his right kneecap while walking up stairs in the performance of duty on June 14, 2011. On June 17, 2011 Dr. Victoria L. Barber, a Board-certified orthopedic surgeon, diagnosed

[1] 5 U.S.C. § 8101 *et seq.*

patellofemoral syndrome. Appellant's supervisor completed a statement noting that appellant had returned to work after being off for over one year.

Appellant submitted medical reports from Dr. Barber. On June 17, 2011 Dr. Barber obtained a history that he was walking upstairs while delivering mail when he felt a sharp pain in his right kneecap on June 14, 2011. On examination, appellant had full range of motion with laxity in lateral stress testing and slight medial retinacular pain. Dr. Barber found that his knee x-rays were normal. She diagnosed patellofemoral syndrome and recommended a brace, physical therapy, medication and modified duties. On July 8, 2011 Dr. Barber found a full range of motion of the right knee with pain on full flexion. She noted slight crepitus and tenderness over the lateral femoral condyle. Dr. Barber diagnosed patellofemoral syndrome, right knee and iliotibial band syndrome, right knee. She recommended a brace, physical therapy and modified work. On July 27, 2011 Dr. Barber found McMurray's testing positive for medial pain and apprehension with patellofemoral motion. She requested a magnetic resonance imaging (MRI) scan. On August 5, 2011 Dr. Barber diagnosed patellofemoral pain due to a possible meniscal tear. She again requested an MRI scan. Appellant underwent an MRI scan on August 19, 2011 which demonstrated small knee joint effusion and mild synovitis with a deep chondral fissure to the bone along the superior part of the median ridge of the patella with a subchondral cyst and bone marrow edema. On August 26, 2011 Dr. Barber reviewed the MRI scan and diagnosed pain due to traumatic arthritis of the patellofemoral joint. She recommended injections and adjusted appellant's work restrictions. On August 31, 2011 Dr. Barber diagnosed right knee patellofemoral pain and traumatic arthritis.

In a letter dated September 21, 2011, OWCP stated that appellant's claim initially appeared to be a minor injury and that payment of a limited amount of medical expenses was administratively approved. The merits of appellant's claim had not been formally adjudicated. OWCP requested additional factual and medical information in support of his claim and allowed him 30 days to respond.

On September 23, 2011 Dr. Barber listed findings on physical examination and MRI scan. She diagnosed right knee patellofemoral pain due to traumatic arthritis involving the patellofemoral articulation. Dr. Barber noted appellant's history of injury and stated that he continued to experience pain while walking down stairs. The MRI scan demonstrated a traumatic chondral fissure involving the patellofemoral compartment.

By decision dated October 26, 2011, OWCP denied appellant's traumatic injury claim. It found that the medical evidence was not sufficient to establish causal relationship between his right knee condition to the June 14, 2011 incident of walking upstairs. Appellant was advised to submit an occupational disease claim if he attributed his condition to repetitive work activities.

In reports dated September 23 and October 21, 2011, Dr. Barber repeated her findings and diagnosis. On November 4, 2011 she stated that appellant's traumatic arthritis resulted from his repetitive activities as a mail carrier. Appellant's work activities included repetitive climbing up and down stairs, squatting, bending and other activities in order to place mail while pushing mail bags. Dr. Barber stated, "It is a misstatement to infer that trauma requires a fall or broken bone. This was not stated nor was this the intent of the post-traumatic changes. [Appellant's] symptoms are the result of repetitive trauma associated with his job duties…."

On June 14, 2012 counsel requested reconsideration.

By decision dated July 11, 2013, OWCP denied the claim. It found that appellant had not submitted sufficient medical opinion evidence to establish a causal relationship between the June 14, 2011 employment incident and his right knee conditions.

LEGAL PRECEDENT

An employee seeking benefits under FECA[2] has the burden of establishing the essential elements of his or her claim by the weight of the reliable, probative and substantial evidence, including the fact that the individual is an "employee of the United States" within the meaning of FECA and that the claim was timely filed within the applicable time limitation period of FECA, that an injury was sustained in the performance of duty as alleged and that any disability or specific condition for which compensation is claimed is causally related to the employment injury.[3] 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.[4]

OWCP defines a traumatic injury as, "[A] condition of the body caused by a specific event or incident or series of events or incidents, within a single workday or shift. Such condition must be caused by external force, including stress or strain which is identifiable as to time and place of occurrence and member or function of the body affected."[5] To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it must first be determined whether a "fact of injury" has been established. The employee must submit sufficient evidence to establish that he or she experienced the employment incident at the time, place and in the manner alleged.[6] The employee must also submit sufficient evidence, generally only in the form a medical evidence, to establish that the employment incident caused a personal injury.[7]

A medical report is of limited probative value on a given medical question if it is unsupported by medical rationale.[8] Medical rationale includes a physician's detailed opinion on the issue of whether these is a causal relationship between the claimant's diagnosed condition and the implicated employment activity. The opinion of the physician must be based on a complete factual and medical background of the claim, must be one of reasonable medical certainty and must be supported by medical reasoning explaining the nature of the relationship

[2] *Id.* at §§ 8101-8193.

[3] *Kathryn Haggerty*, 45 ECAB 383, 388 (1994); *Elaine Pendleton*, 41 ECAB 1143 (1989).

[4] *Victor J. Woodhams*, 41 ECAB 345 (1989).

[5] 20 C.F.R. § 10.5(ee).

[6] *John J. Carlone*, 41 ECAB 354 (1989).

[7] *J.Z.*, 58 ECAB 529 (2007).

[8] *T.F.*, 58 ECAB 128 (2006).

between the diagnosed condition and specific employment activity or factors identified by the claimant.[9]

ANALYSIS

Appellant alleged traumatic injury to his right knee while walking upstairs in the performance of duty on June 14, 2011. He submitted reports from Dr. Barber including a history of injury, findings on physical examination and a diagnosis of traumatic arthritis of the right knee. Dr. Barber addressed the causal relationship between appellant's diagnosed condition and his employment in a November 4, 2011 report. Rather than attributing appellant's right knee condition to his specific job duties on June 14, 2011, she stated that his traumatic arthritis resulted from repetitive activities as a mail carrier. These included repetitive climbing up and down stairs, squatting, bending and other activities in order to place mail while pushing mail bags. Dr. Barber stated, "It is a misstatement to infer that trauma requires a fall or broken bone. This was not stated nor was this the intent of the post-traumatic changes. [Appellant's] symptoms are the result of repetitive trauma associated with his job duties…."

The Board finds that the medical evidence does not support a traumatic injury on June 14, 2011. Dr. Barber attributed the diagnosed arthritis to activities occurring on more than a single workday or shift, *i.e.*, an occupational disease or illness.[10] These activities would not fall within the definition of a traumatic injury listed above which is limited to a condition of the body caused by a specific event or incident or series of events or incidents, within a single workday or shift.[11] OWCP advised appellant to submit an occupational disease claim if he attributed his knee condition to repetitive activities over more than a workday or shift. Based on the evidence of record, the Board finds that he did not submit adequate medical evidence to support a traumatic injury on June14, 2011.

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.

CONCLUSION

The Board finds that appellant has not established that he sustained a traumatic injury on June 14, 2011, as alleged.

[9] *A.D.*, 58 ECAB 149 (2006).

[10] OWCP defines occupational disease or illness as "a condition produced by the work environment over a period longer than a single workday or shift." 20 C.F.R. § 10.5(q).

[11] If appellant believes that his claim could be more appropriately pursued as an occupational disease, he can file the appropriate claim form with OWCP.

ORDER

IT IS HEREBY ORDERED THAT July 11, 2013 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: January 27, 2014
Washington, DC

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

Patricia Howard Fitzgerald, Judge
Employees' Compensation Appeals Board

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