

position for the employing establishment without wage loss. OWCP accepted that appellant sustained a left ankle sprain, old bucket handle tear of her left medial meniscus, tear of her right lateral meniscus, and tear of her right medial meniscus.²

On September 13, 1996 appellant underwent surgery of her left knee area, including arthroscopic synovectomy with femoral chondroplasty, medial meniscectomy, and anterior cruciate ligament reconstruction. On April 27, 2001, October 4, 2002, and September 3, 2004 additional chondroplasty and meniscectomy surgeries were carried out on her left knee. On May 9, 2007 appellant underwent right knee surgery, including arthroscopic synovectomy with resection of chronic anterior cruciate ligament tear stump, arthroscopic medial and lateral meniscoplasty (partial meniscectomy), and chondroplasty of the medial femoral condyle. These surgical procedures were authorized by OWCP.

Appellant had stopped work on August 31, 2002 and received disability compensation on the daily rolls effective August 31, 2002. She received disability compensation on the periodic rolls effective September 8, 2002. Appellant later returned to limited-duty work and stopped receiving disability compensation effective August 31, 2008.

On July 14, 2014 Dr. Paul D. Burton, an attending osteopath and Board-certified orthopedic surgeon, performed a bilateral total knee replacement. This surgery was also authorized by OWCP.

Appellant stopped work on August 10, 2015 and filed a claim for compensation (Form CA-7) alleging disability from August 10 to October 3, 2015 due to her February 20, 1996 employment injury.³

Appellant submitted an August 4, 2015 form report from Dr. Burton. Dr. Burton noted having evaluated her and that her next appointment was on September 22, 2015. He wrote: "Work status: temporary totally disabled." In a narrative report dated August 4, 2015, Dr. Burton reported findings of his examination on that date, noting that appellant's knee incisions were well healed and that she had excellent range of motion in her knees of 0 to 130 degrees. There was no instability in her knees and no sign of infection at the surgery sites. Dr. Burton diagnosed bilateral osteoarthritis of the knees, status post bilateral total knee replacement, and history of metal allergy per patient. He indicated, that "[Appellant] is temporarily totally disabled."

In an August 27, 2015 letter, OWCP requested that appellant submit additional factual and medical evidence in support of her claim for disability from August 10 to October 3, 2015.

In the report dated September 1, 2015, Dr. Thomas Schmalzried, an attending Board-certified orthopedic surgeon, indicated that appellant reported developing rashes on various parts of her body after undergoing bilateral total knee replacement surgery on July 14, 2014. He noted

² Appellant later received schedule awards for 19 percent permanent impairment of her left lower extremity and 16 percent permanent impairment of her right lower extremity.

³ Appellant received disability compensation on the daily rolls beginning October 6, 2015.

that he did not observe any lesions around her knees and that motor and sensory examination of her lower extremities was within normal limits. Dr. Schmalzried indicated that, “It should be recognized that there are many causes of rash and it cannot be assumed that the rash is due to the implanted total knee components.” In a September 15, 2015 note, he found that appellant could return to modified, sedentary work effective September 1, 2015.⁴

On September 22, 2015 Dr. Burton produced a form report in which he noted that appellant had permanent work restrictions of no kneeling, squatting, running, or jumping, and no prolonged sitting, walking, or standing. Appellant could not lift over 40 pounds and she could only work four hours per day. In a narrative report of the same date, Dr. Burton repeated these work restrictions and diagnosed bilateral osteoarthritis of the knees, status post bilateral total knee replacement, and history of metal allergy per patient. He indicated that, “There is reasonable evidence for an industrial causation for [appellant’s] bilateral knee osteoarthritis. She has had multiple operative interventions for industrial injuries and apportionment is not indicated.” Dr. Burton reported that he had nothing further to offer appellant and that treatment was being transferred to another physician.

By decision dated October 29, 2015, OWCP denied appellant’s claim because she had failed to establish disability from August 10 to October 3, 2015 due to her February 20, 1996 employment injury. It determined that the reports of the attending physicians did not contain sufficient medical rationale to support their opinions on causal relationship.

LEGAL PRECEDENT

An employee seeking benefits under FECA has the burden of establishing the essential elements of his or her claim including the fact 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 period of FECA, that an injury was sustained in the performance of duty as alleged and that any disability and/or specific condition for which compensation is claimed are causally related to the employment injury.⁵ The medical evidence required to establish a causal relationship between a claimed period of disability and an employment injury is rationalized medical opinion evidence. 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.⁶

ANALYSIS

OWCP accepted that on February 20, 1996 appellant sustained a left ankle sprain, old bucket handle tear of her left medial meniscus, tear of her right lateral meniscus, and tear of her

⁴ In a September 21, 2015 report, Dr. Schmalzried posited that it was difficult to relate an allergic reaction to implanted surgical hardware.

⁵ *J.F.*, Docket No. 09-1061 (issued November 17, 2009).

⁶ *See E.J.*, Docket No. 09-1481 (issued February 19, 2010).

right medial meniscus. It authorized several left and right knee surgeries between 1996 and 2014. Appellant stopped work on August 10, 2015 and claimed disability from August 10 to October 3, 2015 due to her February 20, 1996 employment injury.

The Board finds that appellant has failed to submit sufficient medical evidence to establish disability from August 10 to October 3, 2015 due to her February 20, 1996 employment injury.

Appellant submitted the August 4, 2015 form report in which Dr. Burton, indicated that her next appointment was on September 22, 2015 and noted, “Work status: temporary totally disabled.” In a narrative report dated August 4, 2015, Dr. Burton reported findings of his examination on that date, noting that her knee incisions were well healed and that she had excellent range of motion in her knees of 0 to 130 degrees. He indicated that, “[Appellant] is temporarily totally disabled.” The submission of this evidence does not support appellant’s claim for disability because Dr. Burton failed to provide any opinion on the cause of her disability. The Board has held that medical evidence which does not offer a clear opinion regarding the cause of an employee’s condition or disability is of limited probative value on the issue of causal relationship.⁷

In two September 22, 2015 reports, Dr. Burton indicated that appellant had permanent work restrictions of no kneeling, squatting, running, or jumping, and no prolonged sitting, walking, or standing, that she could not lift over 40 pounds, and that she could only work four hours per day. However, he did not provide a clear opinion that these work restrictions were necessitated by appellant’s February 20, 1996 employment injury. In the narrative report of the same date, Dr. Burton diagnosed bilateral osteoarthritis of the knees and history of metal allergy per patient and indicated that, “There is reasonable evidence for an industrial causation for [appellant’s] bilateral knee osteoarthritis. She has had multiple operative interventions for industrial injuries and apportionment is not indicated.” OWCP has not accepted bilateral knee osteoarthritis or a metal allergy related to appellant’s February 20, 1996 employment injury. Dr. Burton has not provided a rationalized medical opinion relating this condition to work factors. He did not provide any explanation for his opinion on this matter and the Board has held that a medical report is of limited probative value on the issue of causal relationship if it contains a conclusion regarding causal relationship which is unsupported by medical rationale.⁸

In the September 1, 2015 report from Dr. Schmalzried, appellant was reported as having developed a rash on various parts of her body after undergoing bilateral total knee replacement surgery on July 14, 2014. He noted that he did not observe any lesions around her knees and indicated, “It should be recognized that there are many causes of rash and it cannot be assumed that the rash is due to the implanted total knee components.” This report fails to provide any opinion that appellant had disability during the claimed period due to the February 20, 1996 employment injury or the surgery approved in connection with the injury.⁹ In a September 15,

⁷ See *Charles H. Tomaszewski*, 39 ECAB 461 (1988).

⁸ *C.M.*, Docket No. 14-88 (issued April 18, 2014).

⁹ *Id.*

2015 note, Dr. Schmalzried posited that she could return to modified, sedentary work effective September 1, 2015, but he did not identify the cause of this partial disability.

On appeal, appellant argues that the medical evidence of record supports work-related disability for the period August 10 to October 3, 2015, but the Board has explained why the medical evidence does not establish work-related disability for this period. She 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 did not meet her burden of proof to establish disability from August 10 to October 3, 2015 due to her February 20, 1996 employment injury.

ORDER

IT IS HEREBY ORDERED THAT the October 29, 2015 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: April 12, 2016
Washington, DC

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

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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