United States Department of Labor
Employees' Compensation Appeals Board

R.C., Appellant	)	
and	)	**Docket No. 18-1146**
	)	**Issued: August 12, 2019**
DEPARTMENT OF THE NAVY, SUPERVISOR OF SHIPBUILDING, CONVERSION & REPAIR, Newport News, VA, Employer	)	

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

Case Submitted on the Record

DECISION AND ORDER

Before:
JANICE B. ASKIN, Judge
ALEC J. KOROMILAS, Alternate Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On May 15, 2018 appellant filed a timely appeal from a March 15, 2018 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 this case.[2]

[1] 5 U.S.C. § 8101 *et seq.*

[2] The Board notes that, following the March 15, 2018 decision, OWCP received additional evidence. Appellant also submitted additional evidence on appeal. However, the Board's *Rules of Procedure* provides: "The Board's review of a case is limited to the evidence in the case record that was before OWCP at the time of its final decision. Evidence not before OWCP will not be considered by the Board for the first time on appeal." 20 C.F.R. § 501.2(c)(1). Thus, the Board is precluded from reviewing this additional evidence for the first time on appeal. *Id.*

ISSUE

The issue is whether appellant has met his burden of proof to establish that his left knee condition was causally related to the accepted October 12, 2017 employment incident.

FACTUAL HISTORY

On November 9, 2017 appellant, then a 43-year-old quality assurance specialist, filed a traumatic injury claim (Form CA-1) alleging that on October 12, 2017 he felt his left knee pop and experienced immediate pain when he stepped into a hole walking on uneven pavement while in the performance of duty. He did not stop work.

A witness statement from D.P. indicated that he was walking with appellant and observed appellant step on uneven pavement and start to complain about his knee.

By development letter dated November 13, 2017, OWCP informed him that additional evidence was needed to establish his claim. It requested that he respond to an attached development questionnaire and provide medical evidence to establish that he sustained a diagnosed condition as a result of the alleged incident. OWCP afforded appellant 30 days to submit the necessary evidence.

Appellant received medical treatment from Dr. Anthony T. Carter. In a November 8, 2017 report, Dr. Carter related that appellant was examined for complaints of left knee pain. He noted a date of injury of October 12, 2017 and diagnosed left knee pain.

In a November 21, 2017 attending physician's report (Form CA-20), Dr. Carter noted a date of injury of October 12, 2017. He reported the history of injury as "patient was walking near a dry dock and slipped in a hole twisting his knee." Dr. Carter noted that appellant had a preexisting injury of left chondromalacia of the patella. He diagnosed acute tear of the medial meniscus and related that a magnetic resonance imaging (MRI) scan was needed to confirm the diagnosis. Dr. Carter checked a box marked "yes" indicating that the diagnosed condition was caused or aggravated by the employment activity and noted: "based on the mechanism of injury."

A November 29, 2017 left knee MRI scan demonstrated mild patellar chondromalacia, mild chondromalacia changes of the femoral trochlea, and small joint effusion without significant Baker's cyst. It also demonstrated intact anterior cruciate ligament (ACL), although thickened with intrasubstance signal hyperintensity seen within it.

In a December 6, 2017 report, Dr. Carter observed moderate localized tenderness in the medial joint line, but no swelling. McMurray's test was positive and range of motion was active. Dr. Carter indicated that x-rays of the left knee showed no soft tissue abnormalities. He explained that, based on his examination, he suspected that appellant may have suffered an acute tear of the medial meniscus. Dr. Carter diagnosed chondromalacia patella, acute tear of the medial meniscus, and ACL tear. He also completed a Form CA-20 and noted that appellant had preexisting injury of chondromalacia of the left patella. Dr. Carter checked a box marked "yes," indicating that appellant's condition was caused or aggravated by his employment. He recommended surgery for ACL reconstruction.

On December 7, 2017 OWCP received appellant's response to its development letter. Appellant described that on October 12, 2017 he suffered an injury at work when he was walking on uneven pavement near dry-dock 11 and stepped into a hole. He explained that he felt a pop and immediate pain in his left knee. Appellant related that his job required him to walk to various locations throughout the shipyard. He noted that he had no previous injury or trauma to either of his knees. Appellant explained that he immediately reported the injury to his supervisor, but declined medical treatment because he wanted to see how his left knee would feel later. He reported that on November 2, 2017 he was still experiencing pain and instability and sought medical treatment from Dr. Carter.

By decision dated December 13, 2017, OWCP denied appellant's claim. It accepted that the October 12, 2017 incident occurred and left knee condition was diagnosed, but denied his claim, finding that the medical evidence of record was insufficient to establish that his diagnosed left knee condition was causally related to the accepted incident.

On March 5, 2018 appellant requested reconsideration. He described how on October 12, 2017 he heard a pop and felt immediate pain in his left knee when he was walking near dry-dock 11 at work. Appellant discussed the medical treatment he sought and noted that on December 6, 2017 he was diagnosed with an ACL tear. He related that he had surgery on January 19, 2018. Appellant indicated that he was attaching a copy of a letter from Dr. Carter, which supported that his injury occurred while he performed his duties. He asserted that Dr. Carter's letter substantiated the causal relationship between appellant's injury and his work.

OWCP received a letter dated February 12, 2018 by Dr. Carter who indicated that appellant presented to him on November 8, 2017 for complaints of left knee pain. Dr. Carter explained that at the time of his initial examination he suspected that appellant had suffered a left ACL tear. He reported that appellant underwent surgery on January 19, 2018, which confirmed the diagnosis of an ACL tear. Dr. Carter noted that appellant was undergoing physical therapy and making good progress. He opined that appellant "sustained a left ACL tear on October 12, 2017 when he stepped in a hole and felt a pop in his left knee."

By decision dated March 15, 2018, OWCP denied modification of the December 13, 2017 decision. It found that Dr. Carter's new medical report failed to explain how appellant sustained a left knee injury as a result of the accepted October 12, 2017 employment incident.

LEGAL PRECEDENT

An employee seeking benefits under FECA[3] has the burden of proof to establish 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 of FECA,[4] 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

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[3] *Supra* note 1.

[4] *S.B.*, Docket No. 17-1779 (issued February 7, 2018); *J.P.*, 59 ECAB 178 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

the employment injury.[5] 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.[6]

In order to determine whether a federal employee has sustained a traumatic injury in the performance of duty, OWCP must first determine whether fact of injury has been established.[7] There are two components involved in establishing fact of injury. First, the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time, place, and in the manner alleged.[8] Second, the employee must submit evidence, generally only in the form of probative medical evidence, to establish that the employment incident caused a personal injury.[9]

To establish causal relationship between the condition, as well as any attendant disability claimed and the employment event or incident, the employee must submit rationalized medical opinion evidence.[10] The opinion of the physician must be based on a complete factual and medical background of the employee, 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 factor(s) identified by the employee.[11] The weight of the medical evidence is determined by its reliability, its probative value, its convincing quality, the care of analysis manifested, and the medical rationale expressed in support of the physician's opinion.[12]

In any case where a preexisting condition involving the same part of the body is present and the issue of causal relationship therefore involves aggravation, acceleration, or precipitation, the physician must provide a rationalized medical opinion that differentiates between the effects of the work-related injury or disease and the preexisting condition.[13]

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[5] *J.M.*, Docket No. 17-0284 (issued February 7, 2018); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden*, *Sr.*, 40 ECAB 312 (1988).

[6] *K.M.*, Docket No. 15-1660 (issued September 16, 2016); *L.M.*, Docket No. 13-1402 (issued February 7, 2014); *Delores C. Ellyett*, 41 ECAB 992 (1990).

[7] *D.B.*, Docket No. 18-1348 (issued January 4, 2019); *S.P.,* 59 ECAB 184 (2007).

[8] *D.S.*, Docket No. 17-1422 (issued November 9, 2017); *Bonnie A. Contreras,* 57 ECAB 364 (2006).

[9] *B.M.*, Docket No. 17-0796 (issued July 5, 2018); *David Apgar,* 57 ECAB 137 (2005); *John J. Carlone*, 41 ECAB 354 (1989).

[10] *See S.A.,* Docket No. 18-0399 (issued October 16, 2018); *see also Robert G. Morris*, 48 ECAB 238 (1996).

[11] *M.V.*, Docket No. 18-0884 (issued December 28, 2018); *I.J.,* 59 ECAB 408 (2008); *Victor J. Woodhams,* 41 ECAB 345 (1989).

[12] *James Mack,* 43 ECAB 321 (1991).

[13] *J.F.,* Docket No. 19-0456 (issued July 12, 2019); Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3e (January 2013).

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish causal relationship between his left knee condition and the accepted October 12, 2017 employment incident.

Appellant submitted several reports and letters by Dr. Carter dated November 8, 2017 to February 12, 2018. In his initial report, Dr. Carter noted an October 12, 2017 date of injury and diagnosed left knee pain. In a December 6, 2017 report, he observed moderate localized tenderness in the medial joint line. McMurray's test was positive. Dr. Carter diagnosed chondromalacia patella, acute tear of the medial meniscus, and ACL tear. In a February 12, 2018 letter, he also opined that appellant "sustained a left anterior cruciate ligament tear on October 12, 2017, when he stepped in a hole and felt a pop in his left knee."

Although Dr. Carter's reports contain an affirmative opinion on causal relationship, the Board finds that they do not contain sufficient medical rationale explaining how stepping into a hole, while walking on uneven pavement at work, caused or contributed to appellant's left knee condition. The Board has found that medical evidence that states a conclusion, but does not offer any rationalized medical explanation regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship.[14] Because Dr. Carter did not provide a reasoned opinion explaining how the October 12, 2017 employment incident caused or contributed to appellant's left knee condition, his reports are insufficient to establish his claim. The need for rationalized medical opinion evidence is particularly important in this case since appellant had preexisting left knee chondromalacia of the patella.[15]

Dr. Carter also completed CA-20 forms dated November 21 and December 6, 2017. Dr. Carter indicated that appellant had a preexisting injury of left chondromalacia of the patella. He diagnosed acute medial meniscus tear, chondromalacia patella, and ACL tear. Dr. Carter checked a box marked "yes" indicating that the diagnosed condition was caused or aggravated by the employment activity and noted: "based on the mechanism of injury." As Dr. Carter did not provide medical rationale explaining the causal relationship between appellant's diagnosed left knee conditions and the accepted October 12, 2017 employment incident, these form reports are insufficient to establish his claim.[16]

The November 29, 2017 left knee MRI scan demonstrated mild patellar chondromalacia, mild chondromalacia changes of the femoral trochlea, and a small joint effusion without significant Baker's cyst. The Board has held that diagnostic reports that do not offer any opinion regarding the cause of an employee's condition lack probative value on the issue of causal relationship.[17] For this reason, this evidence is not sufficient to meet his burden of proof.

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[14] *J.F.,* Docket No. 09-1061 (issued November 17, 2009); *A.D.,* 58 ECAB 149 (2006).

[15] *See supra* note 13.

[16] *K.T.,* Docket No. 15-1758 (issued May 24, 2016).

[17] *See J.F.,* Docket No. 19-0456 (issued July 12, 2019).

In order to obtain benefits under FECA an employee has the burden of proof to establish the essential elements of his or her claim by the weight of the reliable, probative, and substantial evidence.[18] Because appellant has failed to provide such evidence demonstrating that his diagnosed left knee condition was causally related to the accepted October 12, 2017 employment incident, he has not met his burden of proof to establish his traumatic injury claim.

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 met his burden of proof to establish that his left knee condition was causally related to the accepted October 12, 2017 employment incident.

ORDER

IT IS HEREBY ORDERED THAT the March 15, 2018 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: August 12, 2019
Washington, DC

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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

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

[18] *Supra* note 5.