

**United States Department of Labor
Employees' Compensation Appeals Board**

T.S., Appellant

and

**DEPARTMENT OF THE ARMY, CIVILIAN
PERSONNEL ADVISORY CENTER,
Fort McCoy, WI, Employer**

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**Docket No. 21-0570
Issued: November 17, 2021**

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

Case Submitted on the Record

DECISION AND ORDER

Before:

ALEC J. KOROMILAS, Chief Judge
PATRICIA H. FITZGERALD, Alternate Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On March 1, 2021 appellant filed a timely appeal from a September 24, 2020 merit decision of the Office of Workers' Compensation Programs (OWCP).¹ Pursuant to the Federal Employees' Compensation Act² (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

¹ The Board notes that, following the September 24, 2020 decision, OWCP received additional evidence. 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.*

² 5 U.S.C. § 8101 *et seq.*

ISSUE

The issue is whether appellant has met his burden of proof to establish a medical condition causally related to the accepted August 4, 2020 employment incident.

FACTUAL HISTORY

On August 5, 2020 appellant, then a 38-year-old heavy mobile equipment mechanic, submitted a traumatic injury claim (Form CA-1) alleging that he injured his right knee on August 4, 2020 when he slipped on a wet substance, as he was checking a generator. He fell between the tire and vehicle, striking his right knee while in the performance of duty. On the reverse side of the claim form his supervisor acknowledged that he was injured in the performance of duty. Appellant did not stop work.

In a report dated August 5, 2020, Dr. Fernando Jara, a Board-certified emergency medicine specialist, noted appellant's history of injury on August 4, 2020 and his current right knee complaints. He related physical examination findings and diagnosed contusion of the right knee.

Appellant also submitted a discharge report dated August 5, 2020 from Dr. Jara who noted that appellant was seen for right knee pain and he diagnosed simple bruising. Dr. Jara also related that appellant's x-ray showed no fracture or dislocation; however, appellant had mild-to-moderate osteoarthritis of the right knee.

In a development letter dated August 20, 2020, OWCP advised appellant of the type of factual and medical evidence necessary to establish his claim and provided him with a questionnaire. It afforded appellant 30 days to submit the necessary evidence. No response was received within the time allotted.

By decision dated September 24, 2020, OWCP accepted that the August 4, 2020 employment incident occurred, as alleged, but denied the claim as appellant had not established a diagnosed medical condition causally related to the accepted employment incident. It concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

LEGAL PRECEDENT

An employee seeking benefits under FECA³ has the burden of proof to establish the essential elements of his or her claim, including that the individual is an employee of the United States within the meaning FECA, that the claim was timely filed within the applicable time limitation period 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

³ *Id.*

⁴ *F.H.*, Docket No. 18-0869 (issued January 29, 2020); *J.P.*, Docket No. 19-0129 (issued April 26, 2019); *Joe D. Cameron*, 41 ECAB 153 (1989).

to 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

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it must first be determined whether fact of injury has been established. There are two components involved in establishing fact of injury. The first component to be established is that 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. The second component is whether the employment incident caused a personal injury.⁷

The evidence required to establish causal relationship between a claimed specific condition and an employment incident is rationalized medical opinion evidence.⁸ 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 specific employment factors identified by the employee.⁹

Pursuant to OWCP's procedures, no development of a claim is necessary where the condition reported is a minor one, which can be identified on visual inspection by a lay person (*e.g.*, burn, laceration, insect sting, or animal bite).¹⁰ No medical report is required to establish a minor condition such as a laceration.¹¹

ANALYSIS

The Board finds that appellant has met his burden of proof to establish a right knee contusion causally related to the accepted August 4, 2020 employment incident.

⁵ *L.C.*, Docket No. 19-1301 (issued January 29, 2020); *J.H.*, Docket No. 18-1637 (issued January 29, 2020); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

⁶ *P.A.*, Docket No. 18-0559 (issued January 29, 2020); *K.M.*, Docket No. 15-1660 (issued September 16, 2016); *Delores C. Ellyett*, 41 ECAB 992 (1990).

⁷ *T.H.*, Docket No. 19-0599 (issued January 28, 2020); *K.L.*, Docket No. 18-1029 (issued January 9, 2019); *John J. Carlone*, 41 ECAB 354 (1989).

⁸ *S.S.*, Docket No. 19-0688 (issued January 24, 2020); *A.M.*, Docket No. 18-1748 (issued April 24, 2019); *Robert G. Morris*, 48 ECAB 238 (1996).

⁹ *T.L.*, Docket No. 18-0778 (issued January 22, 2020); *Y.S.*, Docket No. 18-0366 (issued January 22, 2020); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

¹⁰ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.800.6(a) (June 2011).

¹¹ *Id.*; see *B.C.*, Docket No. 20-0498 (issued August 27, 2020) (the Board accepted lumbar contusion as causally related to the accepted employment incident); *S.H.*, Docket No. 20-0113 (issued June 24, 2020) (the Board accepted a right ankle contusion as causally related to the accepted employment incident); *M.A.*, Docket No. 13-1630 (issued June 18, 2014).

The Board notes that, pursuant to Federal (FECA) Procedure Manual, Part 2 -- Claims, *Initial Development of Claims*, Chapter 2.800.6(a) (June 2011), if a condition reported is a minor one, such as a burn, laceration, insect sting, or animal bite, which can be identified on visual inspection by a lay person, a case may be accepted without a medical report and no development of the case need be undertaken, if the injury was witnessed or reported promptly, and no dispute exists as to the occurrence of an injury, and no time was lost from work due to disability.¹²

Appellant was seen and evaluated by Dr. Jara on August 5, 2020 and diagnosed with right knee contusion and simple bruising. The diagnosis of contusion was consistent with appellant's physical examination and the mechanism of injury. The Board finds that this information, taken together, is sufficient to meet the standards set forth in OWCP's procedures for accepting a contusion to the right knee.

Accordingly, the Board finds that the medical evidence of record is sufficient to establish a contusion to the right knee as causally related to the accepted employment incident. Upon return of the case record, OWCP shall make payment and/or reimbursement of medical expenses with regard to the accepted contusion/bruising to the right knee.¹³

The Board further finds, however, that appellant has not established any additional conditions as causally related to the accepted August 4, 2020 employment injury.

In his August 5, 2020 discharge report, Dr. Jara also diagnosed mild-to-moderate right knee osteoarthritis. However, he did not provide a medical opinion explaining the cause of appellant's condition. The Board has held that medical evidence that does not offer an opinion regarding the cause of an employee's condition is of no probative value on the issue of causal relationship.¹⁴ As such, Dr. Jara's reports are insufficient to establish causal relationship.

As the medical evidence of record is insufficient to establish causal relationship between an additional diagnosed medical condition and the accepted employment injury, the Board finds that appellant has not met his burden of proof.

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 met his burden of proof to establish a contusion to the right knee causally related to the accepted August 4, 2020 employment incident. The Board further

¹² *Supra* note 10.

¹³ *B.C.*, *supra* note 11.

¹⁴ *D.C.*, Docket No. 19-1093 (issued June 25, 2020); *see L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

finds that he has not established an additional condition as causally related to the accepted August 4, 2020 employment injury.

ORDER

IT IS HEREBY ORDERED THAT the September 24, 2020 decision of the Office of Workers' Compensation Programs is reversed in part and affirmed in part. The case is remanded for further proceedings consistent with this decision of the Board.

Issued: November 17, 2021
Washington, DC

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

Patricia H. Fitzgerald, Alternate Judge
Employees' Compensation Appeals Board

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