

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

S.S., Appellant)	
)	
and)	Docket No. 24-0674
)	Issued: August 29, 2024
DEPARTMENT OF VETERANS AFFAIRS,)	
JOHN D. DINGELL VA MEDICAL CENTER,)	
Detroit, MI, Employer)	
)	

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

Case Submitted on the Record

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Chief Judge
VALERIE D. EVANS-HARRELL, Alternate Judge
JAMES D. McGINLEY, Alternate Judge

JURISDICTION

On June 10, 2024 appellant filed a timely appeal from a January 29, 2024 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act¹ (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.²

ISSUE

The issue is whether appellant has met her burden of proof to establish a right knee condition causally related to the accepted February 21, 2023 employment incident.

¹ 5 U.S.C. § 8101 *et seq.*

² The Board notes that, following the January 29, 2024 decision, OWCP received additional evidence. 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.*

FACTUAL HISTORY

On May 17, 2023 appellant, then a 52-year-old nurse, filed a traumatic injury claim (Form CA-1) alleging that on February 21, 2023 she injured her right knee while in the performance of duty. She noted that she got up in a hurry when her patient tried to leave his bed and hit her knee on a computer monitor. Appellant did not stop work.

In support of her claim, appellant submitted a report dated March 9, 2023 from Dr. Margaret Myers, a Board-certified family medicine specialist, who noted complaints of right knee pain, swelling, and stiffness since February 27, 2023.

In an October 23, 2023 development letter, OWCP informed appellant of the deficiencies of her claim. It advised her of the type of additional factual and medical evidence required and provided a questionnaire for her completion. OWCP afforded appellant 60 days to submit the necessary evidence.

OWCP thereafter received x-rays of the right knee dated March 3, 2023, which revealed a small joint effusion but no fracture or dislocation.

In a September 8, 2023 form report, Dr. Myers noted that appellant's right knee condition commenced on February 27, 2023, was chronic in nature, would persist for more than 36 months, and prevented appellant from standing and walking at work.

In a November 3, 2023 attending physician's report (Form CA-20), Dr. Myers noted that appellant "hit knee on computer monitor Feb 2023." She diagnosed internal derangement of the right knee. Dr. Myers opined that the employment incident was a "possible cause" for the diagnosed condition and noted that "standing, walking, stairs can aggravate condition."

In a follow-up letter dated November 22, 2023, OWCP advised appellant that it had conducted an interim review, and the evidence remained insufficient to establish her claim. It noted that she had 60 days from the October 23, 2023 letter to submit the requested supporting evidence. OWCP further advised that if the evidence was not received during this time, it would issue a decision based on the evidence contained in the record. No additional evidence was received.

By decision dated December 28, 2023, OWCP denied appellant's traumatic injury claim, finding that the medical evidence of record was insufficient to establish causal relationship between her diagnosed medical condition and the accepted February 21, 2023 employment incident.

On January 16, 2024 appellant requested reconsideration of OWCP's December 28, 2023 decision. In support of her request, she submitted a medical report dated December 7, 2023 by Dr. Bryan E. Little, a Board-certified orthopedic surgeon, who noted that she related complaints of right knee pain and swelling, which she attributed to an incident at work several months prior when she pushed a portable computer station into her right knee. He performed a physical examination, which revealed pain to palpation over the anteromedial joint line and a positive McMurray's test. Dr. Little diagnosed an acute meniscal tear of the right knee and recommended a magnetic resonance imaging (MRI) scan.

A December 27, 2023 MRI scan of the right knee revealed a partial tear of the posterior collateral ligament (PCL) and osteoarthritis of the right knee with a small patellar joint effusion but no evidence of a meniscal tear.

In a follow-up report dated January 9, 2024, Dr. Little reviewed the December 27, 2023 MRI scan results and documented examination findings. He diagnosed osteoarthritis of the right knee and opined that there was no evidence of a meniscal tear.

By decision dated January 29, 2024, OWCP denied modification of its December 28, 2023 decision.

LEGAL PRECEDENT

An employee seeking benefits under FECA 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,³ 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 medical condition for which compensation is claimed is causally related to the employment injury.⁴ 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.⁵

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it first must be determined whether fact of injury has been established. There are two components involved in establishing fact of injury. The first component is that the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time and place, and in the manner alleged. The second component is whether the employment incident caused an injury.⁶

The medical evidence required to establish causal relationship between a claimed specific condition and an employment incident is rationalized medical opinion evidence.⁷ 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

³ *K.R.*, Docket No. 20-0995 (issued January 29, 2021); *A.W.*, Docket No. 19-0327 (issued July 19, 2019); *S.B.*, Docket No. 17-1779 (issued February 7, 2018); *J.P.*, 59 ECAB 178 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

⁴ *J.M.*, Docket No. 17-0284 (issued February 7, 2018); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

⁵ *J.B.*, Docket No. 20-1566 (issued August 31, 2021); *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).

⁶ *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).

⁷ *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).

nature of the relationship between the diagnosed condition and specific employment incident identified by the employee.⁸

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish a right knee condition causally related to the accepted February 21, 2023 employment incident.

In support of her claim, appellant submitted a November 3, 2023 Form CA-20 by Dr. Myers, who diagnosed internal derangement of the right knee. She opined that the employment incident was a “possible cause” for the diagnosed condition. The Board has held that medical opinions that are speculative or equivocal are of diminished probative value.⁹ Therefore, this evidence is insufficient to establish the claim.

Dr. Myers, in her March 9 and September 8, 2023 reports, noted appellant’s complaints of knee pain and stiffness, and diagnosed internal derangement of the right knee. However, she did not offer an opinion regarding the cause of these conditions. The Board has held that an opinion which does not address the cause of an employee’s condition is of no probative value on the issue of causal relationship.¹⁰ Thus, these reports are insufficient to establish appellant’s claim.

Likewise, in reports dated December 7, 2023 and January 9, 2024, Dr. Little diagnosed right knee osteoarthritis but failed to offer an opinion regarding the cause of these conditions. Therefore, his reports are of no probative value on the issue of causal relationship.¹¹ Thus, these reports are insufficient to establish appellant’s claim.

The remaining evidence of record consisted of an x-ray. The Board has held that diagnostic reports, standing alone, lack probative value on the issue of causal relationship as they do not provide an opinion as to whether the accepted employment incident caused a diagnosed condition.¹² Therefore, this evidence is also insufficient to establish appellant’s claim.

As appellant has not submitted rationalized medical evidence establishing a causal relationship between her diagnosed right knee conditions and the accepted February 21, 2023 employment incident, the Board finds that she has not met her burden of proof to establish her claim.¹³

⁸ *A.S.*, Docket No. 19-1955 (issued April 9, 2020); *Leslie C. Moore*, 52 ECAB 132 (2000).

⁹ *See L.B.*, Docket No. 23-0099 (issued July 26, 2023); *C.C.*, Docket No. 22-0609 (issued October 25, 2022); *H.A.*, Docket No. 18-1455 (issued August 23, 2019); *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).

¹⁰ *T.D.*, Docket No. 19-1779 (issued March 9, 2021); *L.B.* Docket No. 18-0533 (issued August 27, 2018); *DK.* Docket No. 17-1549 (issued July 6, 2018).

¹¹ *Id.*

¹² *W.M.*, Docket No. 19-1853 (issued May 13, 2020); *L.F.*, Docket No. 19-1905 (issued April 10, 2020).

¹³ *See J.T.*, Docket No. 18-1755 (issued April 4, 2019); *T.O.*, Docket No. 18-0139 (issued May 24, 2018).

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 and 20 C.F.R. §§ 10.605 through 10.607.

CONCLUSION

The Board finds that appellant has not met her burden of proof to establish a right knee condition causally related to the accepted February 21, 2023 employment incident.

ORDER

IT IS HEREBY ORDERED THAT the January 29, 2024 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: August 29, 2024
Washington, DC

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

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

James D. McGinley, Alternate Judge
Employees' Compensation Appeals Board