United States Department of Labor
Employees' Compensation Appeals Board

M.A., Appellant	)	
and	)	**Docket No. 24-0617**
	)	**Issued: July 31, 2024**
U.S. POSTAL SERVICE, LOS ANGELES PROCESSING & DISTRIBUTION CENTER, Los Angeles, CA, Employer	)	

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

Case Submitted on the Record

DECISION AND ORDER

Before:
PATRICIA H. FITZGERALD, Deputy Chief Judge
VALERIE D. EVANS-HARRELL, Alternate Judge
JAMES D. McGINLEY, Alternate Judge

JURISDICTION

On May 16, 2024 appellant filed a timely appeal from an April 30, 2024 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 during the pendency of this appeal, OWCP issued a May 23, 2024 merit decision modifying the basis for denying the traumatic injury claim. OWCP's May 23, 2024 decision is null and void as the Board and OWCP may not simultaneously exercise jurisdiction over the same underlying issue in a case on appeal. 20 C.F.R. §§ 501.2(c)(3), 10.626; *see e.g., M.C.*, Docket No. 18-1278 (issued March 7, 2019); *Lawrence Sherman*, 55 ECAB 359, 360 n.4 (2004); *Douglas E. Billings*, 41 ECAB 880 (1990).

ISSUE

The issue is whether appellant has met her burden of proof to establish a diagnosed medical condition in connection with the accepted January 1, 2018 employment incident.

FACTUAL HISTORY

On February 27, 2024 appellant, then a 63-year-old mail handler, filed a traumatic injury claim (Form CA-1) alleging that on January 1, 2018 she sustained a right knee injury when she hit her knee moving wires to start work assignments while in the performance of duty. She reported sharp knee pain rendering her unable to sit or stand for more than a few hours. On the reverse side of the claim form, the employing establishment controverted the claim contending that it was not timely filed within three years of the traumatic injury claim. It further asserted that appellant was not working on the day of the alleged injury.

In support of her claim, appellant submitted a February 6, 2024 report, wherein Dr. Henry S. Johnson, a Board-certified internist, requested continued current worksite accommodations. In his report, Dr. Johnson reported that appellant was under his care for workplace-induced psychological impairment. He related that she experienced a painful condition related to her preexisting degenerative joint disease of the knees, which was induced by prolonged sitting and repetitive overuse injuries leading to flare-ups causing physical and psychological impairments. Dr. Johnson reported that, in order to avoid appellant's impairments leading to industrial incapacity, she should sit a maximum of four hours during her eight-hour shift and walk/stand a maximum of four hours during her eight-hour shift. He further recommended she take 5-minute breaks every 60 minutes to rest her knees and reduce her risk of fall or injury. Dr. Johnson restricted the amount of weight she could carry not to exceed lifting 10 pounds, with the work restrictions in effect from February 2 through July 8, 2024.

In a February 29, 2024 development letter, OWCP informed appellant of the deficiencies of her claim. It advised her of the type of factual and medical evidence required and provided a questionnaire for her completion. OWCP afforded appellant 60 days to submit the requested evidence. No additional evidence was received.

In a follow-up letter dated March 21, 2024, 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 February 29, 2024 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 April 30, 2024, OWCP denied appellant's traumatic injury claim, finding that the evidence of record was insufficient to establish a medical condition in connection with the accepted January 1, 2018 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 FECA[3] 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 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 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 first must be determined whether fact of injury has been established. First, 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. Second, the employee must submit sufficient evidence to establish that the employment incident caused an injury.[7]

The medical 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 the specific employment incident.[9]

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish a diagnosed medical condition in connection with the accepted January 1, 2018 employment incident.

In support of her claim, appellant submitted a February 6, 2024 report, wherein Dr. Johnson discussed her medical history and recommended workplace restrictions and accommodations. He did not, however, diagnose a medical condition in connection with the

[3] *Id*.

[4] *E.K.*, Docket No. 22-1130 (issued December 30, 2022); *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).

[5] *S.H.*, Docket No. 22-0391 (issued June 29, 2022); *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] *E.H.*, Docket No. 22-0401 (issued June 29, 2022); *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] *H.M.*, Docket No. 22-0343 (issued June 28, 2022); *T.J.*, Docket No. 19-0461 (issued August 11, 2020); *K.L.*, Docket No. 18-1029 (issued January 9, 2019); *John J. Carlone*, 41 ECAB 354 (1989).

[8] *S.M.*, Docket No. 22-0075 (issued May 6, 2022); *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] *J.D.*, Docket No. 22-0935 (issued December 16, 2022); *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).

accepted January 1, 2018 employment incident. The Board has held that medical reports lacking a firm diagnosis and a rationalized medical opinion regarding causal relationship are of no probative value.[10] As such, Dr. Johnson's report is insufficient to establish the claim.

As the medical evidence of record is insufficient to establish a diagnosed medical condition in connection with the accepted January 1, 2018 employment incident, the Board finds that appellant has not met her 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 not met her burden of proof to establish a diagnosed medical condition in connection with the accepted January 1, 2018 employment incident.

ORDER

IT IS HEREBY ORDERED THAT the April 30, 2024 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: July 31, 2024
Washington, DC

Patricia H. Fitzgerald, Deputy 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

[10] *See A.C.*, Docket No. 20-1510 (issued April 23, 2021); *J.P.*, Docket No. 20-0381 (issued July 28, 2020); *R.L.*, Docket No. 20-0284 (issued June 30, 2020); *see also L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).