



## ISSUE

The issue is whether appellant has met her burden of proof to expand the acceptance of her claim to include left Achilles tendinitis as causally related to or as a consequence of the accepted January 16, 2019 employment injury.

## FACTUAL HISTORY

On January 16, 2019 appellant, then a 57-year-old human resources assistant, filed a traumatic injury claim (Form CA-1) alleging that she injured her left knee that day when she tripped over a curb when getting lunch from a food truck while in the performance of duty. On March 14, 2019 OWCP accepted the claim for loose body in the left knee and other specific acquired deformities of the musculoskeletal system. It subsequently expanded the acceptance of appellant's claim to include unilateral primary osteoarthritis of the left knee. On December 14, 2020 appellant underwent OWCP-authorized left patellofemoral arthroplasty. On June 16, 2022 OWCP further expanded its acceptance of the claim to include mechanical loosening of internal left knee prosthetic joint. On July 18, 2022 appellant underwent OWCP-authorized cemented left total knee arthroplasty.

In a development letter dated August 14, 2023, OWCP informed appellant that the medical evidence of record indicated a possible consequential left ankle condition causally related to the accepted January 16, 2019 employment injury. It advised her, however, that the current evidence of record was insufficient to establish her claim. OWCP further advised appellant of the type of factual and medical evidence needed and provided a questionnaire for her completion. It also requested that her physician submit a rationalized medical report addressing whether any of the claimed consequential conditions were causally related to the accepted January 16, 2019 employment injury. OWCP afforded appellant 30 days to respond.

In response, OWCP received a September 15, 2023 report by Dr. Thomas Tanous, a Board-certified orthopedic surgeon, wherein he requested that OWCP expand its acceptance of appellant's claim to include left Achilles tendinitis caused by altered gait mechanics from the accepted employment-related left knee injury.

On September 26, 2023 OWCP referred the case record, a statement of accepted facts (SOAF), and a series of questions to Dr. Arthur S. Harris, a Board-certified orthopedic surgeon, serving as an OWCP District Medical Adviser (DMA). It requested that he indicate whether appellant sustained left Achilles tendinitis causally related to or as a consequence of the accepted left knee injury.

In a September 29, 2023 report, Dr. Harris reviewed the medical record and SOAF. He opined that there was insufficient medical evidence or indication in "evidence[-]based medical literature that a left knee condition or altered gait mechanics can result in left Achilles tendinitis."

In a November 9, 2023 development letter, OWCP notified appellant it had determined that there was "insufficient information in the reviewed medical records to expand the claim to include a diagnosis of left Achilles tendinitis," based on Dr. Harris' opinion. It provided a copy of his report for her review.

By decision dated January 9, 2024, OWCP denied the expansion of the acceptance of appellant's claim to include left Achilles tendinitis.

### **LEGAL PRECEDENT**

When an employee claims that, a condition not accepted or approved by OWCP was due to an employment injury, he or she bears the burden of proof to establish that the condition is causally related to the employment injury.<sup>3</sup>

Causal relationship is a medical question that requires rationalized medical opinion evidence to resolve the issue.<sup>4</sup> A physician's opinion on whether there is causal relationship between the diagnosed condition and an accepted injury must be based on a complete factual and medical background.<sup>5</sup> Additionally, the physician's opinion must be expressed in terms of a reasonable degree of medical certainty and must be supported by medical rationale, which explains the nature of the relationship between the diagnosed condition and the accepted employment injury.<sup>6</sup>

When an injury arises in the course of employment, every natural consequence that flows from that injury likewise arises out of the employment, unless it is the result of an independent intervening cause attributable to the claimant's own intentional misconduct.<sup>7</sup> The basic rule is that a subsequent injury, whether an aggravation of the original injury or a new and distinct injury, is compensable if it is the direct and natural result of a compensable primary injury.<sup>8</sup>

### **ANALYSIS**

The Board finds that this case is not in posture for decision.

Appellant submitted medical evidence requesting that OWCP expand its acceptance of her claim to include Achilles tendinitis. OWCP undertook development of the claim and referred the case file and a SOAF to Dr. Harris, serving as the DMA, for an opinion on whether the acceptance of appellant's claim should be expanded to include left Achilles tendinitis.

In his September 29, 2023 report, Dr. Harris discussed the accepted injury and opined that the medical record and unspecified medical literature did not establish that Achilles tendinitis

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<sup>3</sup> *M.B.*, Docket No. 19-0485 (issued August 22, 2019); *R.J.*, Docket No. 17-1365 (issued May 8, 2019); *Jaja K. Asarum*, 55 ECAB 200, 204 (2004).

<sup>4</sup> *E.M.*, Docket No. 18-1599 (issued March 7, 2019); *Robert G. Morris*, 48 ECAB 238 (1996).

<sup>5</sup> *M.V.*, Docket No. 18-0884 (issued December 28, 2018); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

<sup>6</sup> *Id.*

<sup>7</sup> *I.S.*, Docket No. 19-1461 (issued April 30, 2020); *A.M.*, Docket No. 18-0685 (issued October 26, 2018); *Mary Poller*, 55 ECAB 483, 487 (2004).

<sup>8</sup> *L.J.*, Docket No. 23-0860 (issued January 29, 2024); *J.M.*, Docket No. 19-1926 (issued March 19, 2021); *Susanne W. Underwood (Randall L. Underwood)*, 53 ECAB 139, 141 n.7 (2001).

could be caused by a knee condition or altered gait mechanics. However, he did not provide sufficient medical rationale to address the issue of whether appellant established expansion of the acceptance of her claim.

It is well established that proceedings under FECA are not adversarial in nature and that, while the claimant has the burden of proof to establish entitlement to compensation, OWCP shares responsibility in the development of the evidence.<sup>9</sup> OWCP has an obligation to see that justice is done.<sup>10</sup> Accordingly, once OWCP undertakes to develop the medical evidence further, it has the responsibility to do so in a manner that will resolve the relevant issues in the case.<sup>11</sup> As OWCP undertook development in the claim, it has a duty to obtain a report from a qualified physician addressing whether OWCP should expand the acceptance of appellant's claim to include additional conditions causally related to, or as a consequence of, the January 16, 2019 employment injury.<sup>12</sup>

The Board, therefore, finds that the case must be remanded to OWCP for further development. On remand, OWCP shall refer the case record and a SOAF to a specialist in the appropriate field of medicine to obtain a well-rationalized opinion regarding whether it should expand its acceptance of appellant's claim to include left Achilles tendinitis or other consequential conditions of the left lower extremity. Following this and any other such further development as deemed necessary, OWCP shall issue a *de novo* decision.

### CONCLUSION

The Board finds that this case is not in posture for decision.

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<sup>9</sup> See *M.G.*, Docket No. 18-1310 (issued April 16, 2019); *Walter A. Fundinger, Jr.*, 37 ECAB 200, 204 (1985).

<sup>10</sup> *S.S.*, Docket No. 16-1792 (issued January 27, 2017); *Kathleen W. Moore*, Docket No. 05-0372 (issued July 7, 2005); *John J. Carlone*, 41 ECAB 354, 358-60 (1989).

<sup>11</sup> *D.V.*, Docket No. 23-0672 (issued January 12, 2024); *F.H.*, Docket No. 21-0579 (issued December 9, 2021); *T.K.*, Docket No. 20-0150 (issued July 9, 2020); *T.C.*, Docket No. 17-1906 (issued January 10, 2018).

<sup>12</sup> *M.S.*, Docket No. 18-0573 (issued November 5, 2018).

**ORDER**

**IT IS HEREBY ORDERED THAT** the January 9, 2024 decision of the Office of Workers' Compensation Programs is set aside, and the case is remanded for further proceedings consistent with this decision of the Board.

Issued: June 13, 2024  
Washington, DC

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

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

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