



## ISSUE

The issue is whether appellant has met her burden of proof to establish a right lower extremity condition causally related to the accepted January 7, 2022 employment incident.

## FACTUAL HISTORY

On July 3, 2023 appellant, then a 49-year-old social services worker, filed a traumatic injury claim (Form CA-1) alleging that on January 7, 2022 she sustained a right knee injury while in the performance of duty. She indicated that she was moving a file cabinet when her right knee “popped.” On the reverse side of the claim form, appellant’s supervisor acknowledged that appellant was injured in the performance of duty.

In a development letter dated July 7, 2023, OWCP informed appellant of the deficiencies in her claim. It advised her of the type of additional factual and medical evidence necessary to establish her claim and provided a questionnaire for her completion. OWCP afforded appellant 60 days to respond.

In a narrative statement dated July 26, 2023, appellant responded to the questionnaire indicating that she was moving her file cabinet because it had been pushed under her desk due to remodeling in the office. She further indicated that the file cabinet did not hit her leg, but the front of her leg was bruised and sore for “several” weeks. Appellant noted the delay in filing her claim was because she mistakenly believed it was already filed.

In a follow-up letter dated August 2, 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 July 7, 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. It thereafter received medical evidence. On February 14, 2022 appellant was seen by Dr. Kristen Killen, a Board-certified family medicine physician. Dr. Killen related right knee pain, and recounted that her right knee popped when she pulled a file cabinet. She diagnosed right knee pain.

On March 15, 2022 appellant was seen by Ronald A. McCall, a physician assistant. Appellant’s diagnosis was listed as tear of the medial meniscus of the right knee.

In a report dated March 15, 2022, Dr. Pierre L. Clothiaux, a Board-certified orthopedic surgeon, noted that appellant related having anteromedial knee for “several” weeks. He diagnosed right knee pain.

An x-ray report of the right knee dated March 15, 2022 and signed by Dr. Wayne Putnam, a Board-certified osteopathic radiologist, indicated no acute findings. A subsequent x-ray report of the right knee dated July 18, 2023 and reviewed by Dr. Steven C. Weissfeld, a Board-certified orthopedic surgeon, also indicated no acute findings or significant changes.

On August 15, 2023 appellant was seen for physical therapy evaluation by Christopher Dieckhaus, a physical therapist, who diagnosed a right hamstring strain. Appellant reiterated her

injury history, noting that she continued to have difficulty sitting or lying with her knee straightened.

By decision dated September 7, 2023, OWCP denied appellant's traumatic injury claim, finding that the evidence of record was insufficient to establish a diagnosed medical condition in connection with the accepted employment incident. It concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

On February 28, 2024 appellant, through counsel, requested reconsideration.

In support thereof, appellant submitted additional evidence.

In a July 18, 2023 report, Dr. Weissfeld related appellant's complaints of pain in the distal thigh and proximal calf posteriorly, which began after appellant was pulling a file cabinet at work and heard her right knee pop. He diagnosed right hamstring muscle strain, antalgic gait, and right knee pain. On September 14, 2023 appellant was seen again by Dr. Weissfeld. Dr. Weissfeld diagnosed right gastrocnemius muscle strain, strain of muscle, fascia, and tendon in the right thigh, and Hoffa's fat pad disease.

An MRI scan of the right knee dated October 12, 2023, signed by Dr. Kevin Baehl, a Board-certified diagnostic radiologist, demonstrated a medial and lateral meniscus tear and minimal tricompartmental hypertrophic osteoarthritic changes.

On November 14, 2023 appellant was treated by Dr. Ken J. Carpenter, a Board-certified orthopedic surgeon. Dr. Carpenter reiterated her history of injury and continued pain complaints. Appellant advised him that swelling and soreness throughout the knee had partially resolved. Dr. Carpenter diagnosed medial and lateral meniscus tear.

On November 27, 2023 appellant underwent an unauthorized right knee arthroscopy performed by Dr. Carpenter. Appellant's postoperative diagnosis was listed as right knee medial and lateral meniscus tear.

By decision dated February 29, 2024, OWCP modified its September 7, 2023 decision to find that appellant had established diagnosed right lower extremity conditions in connection with the accepted employment incident. The claim remained denied, however, as the medical evidence of record was insufficient to establish causal relationship between the diagnosed conditions and the accepted employment incident.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA<sup>3</sup> 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, 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

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<sup>3</sup> *Id.*

employment injury.<sup>4</sup> 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.<sup>5</sup>

To determine whether an employee 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 is whether the employee 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.<sup>6</sup>

Causal relationship is a medical question that requires rationalized medical opinion evidence to resolve the issue.<sup>7</sup> A physician's opinion on whether there is causal relationship between the diagnosed condition and the employment injury must be based on a complete factual and medical background.<sup>8</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, explaining the nature of the relationship between the diagnosed condition and appellant's employment injury.<sup>9</sup> Neither the mere fact that a disease or condition manifests itself during a period of employment, nor the belief that the disease or condition was caused or aggravated by employment factors or incidents is sufficient to establish causal relationship.<sup>10</sup>

### ANALYSIS

The Board finds that appellant has not met her burden of proof to establish a right lower extremity condition causally related to the accepted January 7, 2022 employment incident.

On February 14, 2022, appellant was treated by Dr. Killen who diagnosed right knee pain. On March 15, 2022, appellant was treated by Dr. Pierre Clothiaux, who also diagnosed right knee pain. On July 18 and September 14, 2023, appellant was treated by Dr. Weissfeld. On July 18, 2023, Dr. Weissfeld diagnosed right hamstring muscle strain, antalgic gait, and right knee pain, and on September 14, 2023, he diagnosed right gastrocnemius muscle strain, strain of

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

<sup>5</sup> *B.H.*, Docket No. 20-0777 (issued October 21, 2020); *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).

<sup>6</sup> *M.H.*, Docket No. 18-1737 (issued March 13, 2019); *John J. Carlone*, 41 ECAB 354 (1989); see 5 U.S.C. § 8101(5) (injury defined); 20 C.F.R. §§ 10.5(ee), 10.5(q) (traumatic injury and occupational disease defined, respectively).

<sup>7</sup> *R.P.*, Docket No. 21-1189 (issued July 29, 2022); *E.M.*, Docket No. 18-1599 (issued March 7, 2019); *Robert G. Morris*, 48 ECAB 238 (1996).

<sup>8</sup> *R.P., id.*; *F.A.*, Docket No. 20-1652 (issued May 21, 2021); *M.V.*, Docket No. 18-0884 (issued December 28, 2018); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

<sup>9</sup> *Id.*

<sup>10</sup> *T.M.*, Docket No. 22-0220 (issued July 29, 2022); *S.S.*, Docket No. 18-1488 (issued March 11, 2019); see also *J.L.*, Docket No. 18-1804 (issued April 12, 2019).

muscle, fascia, and tendon in the right thigh, and Hoffa’s fat pad disease. However, none of these physicians provided an opinion on causal relationship. As the Board has held, medical evidence which does not offer an opinion regarding the cause of an employee’s condition is of no probative value on the issue of causal relationship.<sup>11</sup> This evidence is, therefore, insufficient to establish appellant’s claim.

On November 14, 2023 appellant was treated by Dr. Carpenter, who diagnosed medial and lateral meniscus tear. On November 27, 2023 Dr. Carpenter performed a right knee arthroscopy. He, however, similarly did not provide an opinion on causal relationship. This evidence is, therefore, also of no probative value and insufficient to establish the claim.<sup>12</sup>

OWCP received a March 15, 2022 report from a physician assistant. Appellant submitted a physical therapy evaluation dated August 15, 2023. However, the Board has held that certain healthcare providers such as physician assistants and physical therapists are not considered physicians as defined under FECA.<sup>13</sup> These reports are of no probative value and are, therefore, insufficient to establish the claim.

X-ray reports and an MRI scan of the right knee were also received. However, the Board has held diagnostic studies, standing alone, lack probative value on the issue of causal relationship, as they do not provide an opinion as to whether the employment incident caused any of the diagnosed conditions.<sup>14</sup> Thus, these diagnostic studies are insufficient to establish appellant’s claim.

Further, appellant submitted a narrative statement. As noted above, causal relationship is a medical question that requires rationalized medical opinion evidence to resolve the issue.<sup>15</sup> A lay opinion regarding causal relationship does not constitute probative medical evidence.<sup>16</sup> This statement is, therefore, insufficient to establish the claim.

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<sup>11</sup> See *C.R.*, Docket No. 23-0330 (issued July 28, 2023); *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

<sup>12</sup> *Id.*

<sup>13</sup> Section 8101(2) of FECA provides that physician “includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, and osteopathic practitioners within the scope of their practice as defined by State law.” 5 U.S.C. § 8101(2); 20 C.F.R. § 10.5(t). See also Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3a(1) (January 2013); *David P. Sawchuk*, 57 ECAB 316, 320 n.11 (2006) (lay individuals such as physician assistants, nurses, and physical therapists are not competent to render a medical opinion under FECA); see also *A.F.*, Docket No. 22-1135 (issued January 5, 2023) (physician assistants are not considered physicians as defined under FECA).

<sup>14</sup> *R.L.*, Docket No. 23-0098 (issued June 20, 2023); *A.O.*, Docket No. 21-0968 (issued March 18, 2022); see *M.S.*, Docket No. 19-0587 (issued July 22, 2019).

<sup>15</sup> *Supra* note 7.

<sup>16</sup> See *E.H.*, Docket No. 19-0365 (issued March 17, 2021).

As the medical evidence of record is insufficient to establish causal relationship between a lower extremity condition and the accepted January 7, 2022 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 right lower extremity condition causally related to the accepted January 7, 2022 employment incident.

**ORDER**

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

Issued: June 3, 2024  
Washington, DC

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

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

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