United States Department of Labor
Employees' Compensation Appeals Board

P.D., Appellant	)	
and	)	**Docket No. 24-0281**
	)	**Issued: May 16, 2024**
U.S. POSTAL SERVICE, BROOMALL POST OFFICE, Broomall, PA, 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 January 26, 2024 appellant filed a timely appeal from a November 22, 2023 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 to consider the merits of this case.

ISSUE

The issue is whether appellant met his burden of proof to establish a left knee condition causally related to the accepted February 7, 2023 employment incident.

FACTUAL HISTORY

On February 22, 2023 appellant, then a 54-year-old city carrier assistant 1, filed a traumatic injury claim (Form CA-1) alleging that on February 7, 2023 he developed left knee pain and stiffness when he tripped on uneven pavers and fell, landing face down, while

[1] 5 U.S.C. § 8101 *et seq.*

delivering mail in the performance of duty. He stopped work on February 7, 2023 and returned on February 8, 2023.

In a March 14, 2023 development letter, OWCP informed appellant of the deficiencies of his claim. It advised him of the type of additional factual and medical evidence required and provided a questionnaire for his completion. OWCP afforded appellant 60 days to submit the necessary evidence.

In a follow-up letter dated April 19, 2023, OWCP advised appellant that it had conducted an interim review, and the evidence remailed insufficient to establish his claim. It noted that he had 60 days from the March 14, 2023 development letter to submit the requested supporting evidence and afforded him until May 12, 2023 to provide the evidence previously requested. 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.

In an April 19, 2023 duty status report (Form CA-17), Jennifer Frey, a certified registered nurse practitioner, diagnosed left knee pain, provided work restrictions, and referred appellant for an x-ray. X-ray results of even date read as unremarkable.

By decision dated May 25, 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 February 7, 2023 employment incident. It concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

On May 31, 2023 appellant requested reconsideration of OWCP's May 25, 2023 decision, asserting that his left knee condition slowly progressed following the accepted February 7, 2023 employment incident. He also resubmitted his April 19, 2023 x-rays.

By decision dated June 29, 2023, OWCP denied appellant's request for reconsideration of the merits of his claim, pursuant to 5 U.S.C. § 8128(a).

OWCP continued to receive medical evidence. In an August 8, 2023 report, Dr. Emily Levy, a Board-certified family practitioner, recounted the February 7, 2023 employment incident and diagnosed chronic left knee pain with meniscal and medial collateral ligament (MCL) pain.

On August 29, 2023 appellant requested reconsideration and submitted an August 22, 2023 left knee magnetic resonance imaging (MRI) scan which revealed a tear of the medial meniscus and mild degenerative changes in the medial tibiofemoral compartment. In a note of even date, Dr. Levy diagnosed sprain of the MCL and tear of the medial meniscus of the left knee based on review of the MRI scan.

By decision dated November 22, 2023, OWCP modified the prior decision, finding that appellant had established a diagnosed medical condition in connection with the accepted February 7, 2023 employment incident. However, the claim remained denied as the medical evidence of record was insufficient to establish causal relationship between the diagnosed medical condition and the accepted February 7, 2023 employment incident.

LEGAL PRECEDENT

An employee seeking benefits under FECA[2] 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,[3] 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 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.[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 nature of the relationship between the diagnosed condition and specific employment incident.[8]

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish a left knee condition causally related to the accepted February 7, 2023 employment incident.

In an August 8, 2023 report, Dr. Levy described the February 7, 2023 employment incident and diagnosed chronic left knee pain with meniscal and MCL pain. However, she did

[2] *Id.*

[3] *D.T.*, Docket No. 23-1094 (issued January 5, 2024); *S.B.*, Docket No. 23-0307 (issued August 25, 2023); *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).

[4] *S.B., id.*; *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).

[5] *S.B., id.*; *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).

[6] *S.B., id.*; *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.B., id.*; *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).

[8] *Id.*

not provide an opinion on the cause of his 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.[9] This evidence is, therefore, insufficient to establish appellant's claim.

Similarly, on August 22, 2023, Dr. Levy reviewed MRI scan results of even date and diagnosed sprain of the MCL and tear of the medial meniscus of the left knee. However, she again did not provide an opinion on causal relationship. As noted above, 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, this report is also insufficient to establish appellant's claim.

Appellant also submitted x-ray studies and an MRI scan. The Board, however, 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.[11] Therefore, this evidence is also insufficient to establish appellant's claim.

The remaining evidence of record consisted of reports by a certified registered nurse practitioner. However, certain healthcare providers such as nurse practitioners are not considered 'physician[s]" as defined under FECA.[12] Consequently, their medical findings or opinions will not suffice for purposes of establishing entitlement to FECA benefits.[13]

As the medical evidence of record is insufficient to establish causal relationship between the diagnosed left knee condition and the accepted February 7, 2023 employment incident, 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 and 20 C.F.R. §§ 10.605 through 10.607.

CONCLUSION

The Board finds that appellant has not met his burden of proof to establish a left knee condition causally related to the accepted February 7, 2023 employment incident.

[9] *See L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

[10] *Id*.

[11] *J.D., id.*; *W.M.*, Docket No. 19-1853 (issued May 13, 2020); *L.F.*, Docket No. 19-1905 (issued April 10, 2020).

[12] Section 8101(2) of FECA provides that medical opinions can only be given by a qualified physician. This section defines a physician as 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* Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship,* Chapter 2.805.3a(1) (September 2020); *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 J.B.,* Docket No. 23-0884 (issued January 22, 2024) (a nurse practitioner is not considered a qualified physician under FECA); *J.D.*, Docket No. 21-0164 (issued June 15, 2021) (nurse practitioners are not physicians as defined under FECA).

[13] *R.H.*, Docket No. 21-1382 (issued March 7, 2022); *S.E.*, Docket No. 21-0666 (issued December 28, 2021).

ORDER

IT IS HEREBY ORDERED THAT the November 22, 2023 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: May 16, 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