United States Department of Labor
Employees' Compensation Appeals Board

S.M., Appellant	)	
and	)	**Docket No. 24-0939**
	)	**Issued: October 25, 2024**
DEPARTMENT OF THE NAVY, PORTSMOUTH NAVAL SHIPYARD, Kittery, ME, Employer	)	

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

Case Submitted on the Record

DECISION AND ORDER

Before:
JANICE B. ASKIN, Judge
VALERIE D. EVANS-HARRELL, Alternate Judge
JAMES D. McGINLEY, Alternate Judge

JURISDICTION

On September 25, 2024 appellant filed a timely appeal from June 13 and July 26, 2024 merit decisions 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.

ISSUE

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

FACTUAL HISTORY

On December 13, 2023 appellant, then a 55-year-old gas and radiation detector, filed a traumatic injury claim (Form CA-1) alleging that on December 7, 2023 he sprained and/or tore his

[1] 5 U.S.C. § 8101 *et seq*.

right knee meniscus when he got stuck exiting a confined space while in the performance of duty. The employing establishment acknowledged that he was in the performance of duty at the time of the alleged injury.

In a report of work status (Form CA-3), the employing establishment advised that appellant had stopped work on December 7, 2023 and returned to his usual employment on December 11, 2023.

On December 11, 2023 Dr. Nicole L. Carney, an osteopath, obtained a history of appellant experiencing right medial knee pain when his feet planted as he slid on his back in a small space. On examination she found no swelling, bruising, laxity, or reduced motion. Dr. Carney diagnosed right knee pain and a possible medial meniscus injury given the mechanism of injury. She referred appellant for an orthopedic evaluation.

A physical therapist evaluated appellant on December 18, 2023.

In a development letter dated April 11, 2024, OWCP advised appellant of the deficiencies of his claim. It informed him of the type of additional factual and medical evidence needed and afforded him 60 days to submit the necessary evidence. No evidence was received.

In a follow-up letter dated May 10, 2024, OWCP advised appellant that it had conducted an interim review, and the evidence remained insufficient to establish his claim. It noted that he had 60 days from the April 11, 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.

Subsequently, OWCP received a December 11, 2023 attending physician's report (Form CA-20) from Dr. Carney, who provided the history of injury and diagnosed right knee pain and a suspected medial meniscus injury. Dr. Carney advised that the condition was related to the described employment activity as appellant had experienced a mispositioning of his right lower extremity when in a confined workspace causing an injury. She found that appellant was not disabled.

On May 28, 2024 the employing establishment requested that appellant receive an extension of time to respond to OWCP's development letter. In a May 29, 2024 memorandum of telephone call (Form CA-110), OWCP advised that evidence submitted beyond the 60 days could be submitted through the appeals process.

By decision dated June 13, 2024, OWCP denied appellant's traumatic injury claim. It found that although he had established the occurrence of the December 7, 2023 employment incident, the medical evidence did not contain a medical diagnosis in connection with the accepted employment incident. OWCP concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

On July 19, 2024 appellant requested reconsideration. He submitted a July 18, 2024 Form CA-20 from Dr. Carney who diagnosed other meniscus derangements due to the described history of injury, providing the same rationale as in the December 11, 2023 Form CA-20.

By decision dated July 26, 2024, OWCP modified the June 13, 2024 decision, finding that appellant had established a diagnosis in connection with the accepted employment incident. However, the claim remained denied as he had not established causal relationship between the diagnosed medical condition and the accepted 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 filed within the applicable time limitation of FECA,[3] that an injury was sustained while 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 on 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.[6] 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.[7] The second component is whether the employment incident caused an injury.[8]

Causal relationship is a medical question that requires rationalized medical opinion evidence to resolve the issue.[9] The opinion of the physician must be based upon a complete factual and medical background, 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.[10]

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[2] *Id*.

[3] *C.B.*, Docket No. 21-1291 (issued April 28, 2022); *S.C.*, Docket No. 18-1242 (issued March 13, 2019); *J.P.*, 59 ECAB 178 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

[4] *N.B.*, Docket No. 23-0690 (issued December 5, 2023); *L.C.*, Docket No. 19-1301 (issued January 29, 2020); *T.H.*, Docket No. 18-1736 (issued March 13, 2019); *R.C.*, 59 ECAB 427 (2008).

[5] *P.A.*, Docket No. 18-0559 (issued January 29, 2020); *T.E.*, Docket No. 18-1595 (issued March 13, 2019); *Delores C. Ellyett*, 41 ECAB 992 (1990).

[6] *T.H.*, Docket No. 19-0599 (issued January 28, 2020); *S.S.*, Docket No. 18-1488 (issued March 11, 2019); *T.H.*, 59 ECAB 388 (2008).

[7] *S.S.*, Docket No. 19-0688 (issued January 24, 2020); *E.M.*, Docket No. 18-1599 (issued March 7, 2019); *Bonnie A. Contreras*, 57 ECAB 364 (2006).

[8] *Id*.

[9] *E.G.*, Docket No. 20-1184 (issued March 1, 2021); *T.H.*, 59 ECAB 388 (2008).

[10] *D.C.*, Docket No. 19-1093 (issued June 25, 2020); *see L.B.*, Docket No. 18-0533 (issued August 27, 2018).

ANALYSIS

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

In a July 18, 2024 CA-20 form, Dr. Carney diagnosed other meniscus derangements due to the history of injury, and opined that appellant's mispositioning of his right lower extremity while working in a confined space had resulted in a right knee injury. She did not, however, explain how mispositioning his right lower extremity caused a meniscus derangement. The Board has held that a medical opinion should offer a medically-sound explanation of how the specific employment incident physiologically caused the injury. Consequently, Dr. Carney's report is insufficient to establish appellant's claim.

On December 11, 2023 Dr. Carney noted that appellant complained of right knee pain after his feet stuck as he slid on his back in a small space. She found no swelling, bruising, laxity, or reduced motion on examination. Dr. Carney diagnosed right knee pain and a possible medial meniscus injury. In a December 11, 2023 Form CA-20, she diagnosed right knee pain which she attributed to the December 7, 2023 employment incident. However, a diagnosis of pain does not constitute the basis for payment of compensation as pain is a symptom rather than a specific diagnosis.[11]

Appellant also submitted reports from a physical therapist. The Board has held that certain healthcare providers such as physician assistants, nurse practitioners, and physical therapists are not considered physicians as defined under FECA.[12] Consequently, their medical findings and/or opinions will not suffice for purposes of establishing entitlement to FECA benefits. Thus, this evidence is also insufficient to establish appellant's traumatic injury claim.

As the medical evidence of record is insufficient to establish a right knee condition causally related to the accepted December 7, 2023 employment incident, the Board finds that appellant has not met his burden of proof to establish his claim.

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.

[11] *J.P.*, Docket No. 19-0303 (issued August 13, 2019).

[12] 5 U.S.C. § 8101(2) 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, 20 C.F.R. § 10.5(t). *See* Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3a(1) (May 2023); *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 K.D.*, Docket No. 22-0756 (issued November 2022) (a physical therapist is not considered a physician under FECA).

CONCLUSION

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

ORDER

IT IS HEREBY ORDERED THAT the June 13 and July 26, 2024 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: October 25, 2024
Washington, DC

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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

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