



when he fell down a staircase when he attempted to detain a violent subject with a warrant while in the performance of duty. He did not stop work.

Appellant provided December 10, 2020 and January 21, 2022 treatment notes from Audrey P. Pika and Alyson K. Ferguson, advanced practice registered nurses. He also underwent x-rays on December 10, 2020.

In a development letter dated January 25, 2022, OWCP informed appellant of the deficiencies of his claim. It advised him of the type of factual and medical evidence needed and provided him with an attending physician's report (Form CA-20) for completion by his treating physician. OWCP afforded appellant 30 days to respond.

OWCP subsequently received additional medical evidence. Dr. Patrick T. Hurlbut, a Board-certified orthopedic surgeon, completed an undated Form CA-20 noting a December 3, 2020 injury and his diagnosis of right knee pain. He opined that appellant's ongoing condition was causally related to the employment incident.

In a January 28, 2022 report, Dr. Hurlbut recounted appellant's history of injury in December 2020 including that he fell onto his right knee and heard a "pop" with resulting pain to the lateral and medial aspect of his right knee. He noted that appellant had previously undergone arthroscopic surgery on his right knee. Dr. Hurlbut diagnosed complex tear of the medial meniscus, chondromalacia patella, and pain of the right knee. He examined appellant on March 1, 2022 and reviewed diagnostic testing which demonstrated right knee patellofemoral and medial compartment chondromalacia/osteoarthritis, low-grade sprain of the medial collateral ligament (MCL), synovial Baker's cyst, and meniscus degeneration. Dr. Hurlbut recommended surgery.

By decision dated March 8, 2022, OWCP denied appellant's traumatic injury claim, finding that the medical evidence of record was insufficient to establish that his diagnosed condition was causally related to the accepted December 3, 2020 employment incident.

In a March 18, 2022 report, Dr. Hurlbut related that in December 2020 appellant was knocked down and fell on his right knee at work. He noted that he had no right knee symptoms prior to this injury. Dr. Hurlbut found that the December 2020 incident aggravated appellant's asymptomatic preexisting arthritis of the patellofemoral joint and more likely than not caused his MCL sprain and meniscal injury.

On March 28, 2022 appellant requested a review of the written record by a representative of OWCP's Branch of Hearings and Review.

On May 13, 2022 Dr. Hurlbut performed right knee arthroscopy and open arthrotomy with osteochondral allograft to the patella.

By decision dated June 9, 2023, OWCP's hearing representative affirmed the March 8, 2022 OWCP decision.

On December 14, 2023 appellant requested reconsideration of the June 9, 2023 decision and provided additional evidence. In a November 28, 2023 report, Dr. Hurlbut described

appellant's accepted December 3, 2020 employment incident and related his immediate and continuing knee pain. He noted that appellant had undergone right knee surgery on February 15, 2013 with resolved symptoms until the accepted employment incident on December 3, 2020. Dr. Hurlbut reviewed electrodiagnostic studies and diagnosed low-grade MCL sprain and intra-meniscal degeneration without definitive tear. He listed his surgical findings including a complete absence of articular cartilage in specific locations, with normal surrounding cartilage which he considered to be characteristic of a traumatic injury. Dr. Hurlbut also compared his surgical findings with those from appellant's 2013 right knee surgery and opined that he had sustained different and new trochlea and medial femoral condyle injuries. He related that an impact injury to the knee could have been responsible for the rapid deterioration of cartilage. Dr. Hurlbut opined that in a patient who was asymptomatic prior to the trauma of December 3, 2020, it was "more likely than not" that the trauma sustained to the right knee was responsible for the progression of the chondral defect in the patella, the injuries in the trochlea and medial femoral condyle and the cartilage injury of the patella.

By decision dated December 19, 2023, OWCP accepted the claim for sprain of the MCL of the right knee.

By separate decision dated December 19, 2023, OWCP affirmed in part and modified in part its June 9, 2023 decision to include the acceptance of sprain of the MCL of the right knee as a result of the accepted December 3, 2020 employment incident. However, it found that the medical evidence of record was insufficient to establish causal relationship between the diagnosed conditions of right knee mild patellofemoral osteoarthritis, right knee patellar defect, right knee Baker's cyst, and right knee meniscus degeneration and the accepted December 3, 2020 employment injury.

### **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>2</sup> To establish causal relationship between the condition as well as any additional conditions claimed and the employment injury, an employee must submit rationalized medical evidence.<sup>3</sup> The opinion of the physician must be based on a complete factual and medical background of the claimant, 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 injury identified by the claimant.<sup>4</sup>

In a case in which a preexisting condition involving the same part of the body is present and the issue of causal relationship, therefore, involves aggravation, acceleration, or

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<sup>2</sup> *S.S.*, Docket No. 23-0391 (issued October 24, 2023); *M.M.*, Docket No. 19-0951 (issued October 24, 2019); *Jaja K. Asaramo*, 55 ECAB 200, 204 (2004).

<sup>3</sup> *S.S.*, *id.*; *T.K.*, Docket No. 18-1239 (issued May 29, 2019); *M.W.*, 57 ECAB 710 (2006); *John D. Jackson*, 55 ECAB 465 (2004).

<sup>4</sup> *T.K.*, *id.*; *I.J.*, 59 ECAB 408 (2008).

precipitation, the physician must provide a rationalized medical opinion that differentiates between the effects of the work-related injury or disease and the preexisting condition.<sup>5</sup>

### ANALYSIS

The Board finds that appellant has not met his burden of proof to expand the acceptance of his claim to include additional right knee conditions as causally related to the accepted December 3, 2020 employment injury.

In support of his claim, appellant submitted a November 28, 2023 report from Dr. Hurlbut in which he described appellant's accepted December 3, 2020 employment injury and his right knee surgery on February 15, 2013 with resolved symptoms. Dr. Hurlbut diagnosed low-grade MCL sprain, intra-meniscal degeneration, a complete absence of articular cartilage in specific locations, with normal surrounding cartilage which he considered to be characteristic of a traumatic injury. He also compared his surgical findings with those from appellant's 2013 right knee surgery and opined that appellant had sustained different and new trochlea and medial femoral condyle injuries. Dr. Hurlbut related that an impact injury to the knee could have been responsible for the rapid deterioration of cartilage. He opined that in a patient who was asymptomatic prior to the trauma of December 3, 2020, it was "more likely than not" that the trauma sustained to the right knee was responsible for the progression of the chondral defect in the patella, the injuries in the trochlea and medial femoral condyle and the cartilage injury of the patella. Dr. Hurlbut also completed an undated Form CA-20, noting a December 3, 2020 injury and his diagnosis of right knee pain. He opined that appellant's ongoing condition was causally related to the employment incident. While Dr. Hurlbut provided an affirmative opinion, which supported causal relationship, he did not offer a rationalized medical explanation to support his opinion.<sup>6</sup> The Board has held that medical evidence must offer a rationalized explanation by the physician of how a specific employment incident physiologically caused or aggravated the diagnosed conditions.<sup>7</sup> Therefore, this evidence is insufficient to establish expansion of the acceptance of the claim.

In his March 18, 2022 report, Dr. Hurlbut described the accepted December 3, 2020 employment injury and found that this fall aggravated appellant's asymptomatic preexisting arthritis of the patellofemoral joint and "more likely than not" caused his MCL sprain and meniscal injury. Dr. Hurlbut's opinion, however, is speculative in nature.<sup>8</sup> Medical opinions that

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<sup>5</sup> *M.D.*, Docket No. 24-0387 (issued May 20, 2024); *J.M.*, Docket No. 23-0251 (issued January 9, 2023); *G.D.*, Docket No. 20-0966 (issued July 21, 2022); *R.C.*, Docket No. 19-0376 (issued July 15, 2019); Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3e (May 2023).

<sup>6</sup> *See R.B.*, Docket No. 23-1027 (issued April 3, 2024); *S.B.*, Docket No. 24-0064 (issued February 28, 2024); *S.C.*, Docket No. 21-0929 (issued April 28, 2023); *J.D.*, Docket No. 19-1953 (issued January 11, 2021); *M.W.*, Docket No. 14-1664 (issued December 5, 2014).

<sup>7</sup> *See R.B.*, *S.B.*, *id.*; *T.L.*, Docket No. 23-0073 (issued January 9, 2023); *V.D.*, Docket No. 20-0884 (issued February 12, 2021); *Y.D.*, Docket No. 16-1896 (issued February 10, 2017).

<sup>8</sup> *See B.C.*, Docket No. 24-0036 (issued March 19, 2024); *L.M.*, Docket No. 23-1040 (issued December 29, 2023); *P.D.*, Docket No. 18-1461 (issued July 2, 2019); *E.B.*, Docket No. 18-1060 (issued November 1, 2018); *Leonard J. O'Keefe*, 14 ECAB 42 (1962).

are speculative or equivocal in character are of diminished probative value.<sup>9</sup> For these reasons, Dr. Hurlbut's March 18, 2022 report is also insufficient to establish expansion of the acceptance of the claim.

In January 28 and March 1, 2022 reports, Dr. Hurlbut recounted appellant's history of injury and diagnosed low grade sprain of the MCL, Baker's cyst, meniscus degeneration, right knee patellofemoral and medial compartment chondromalacia/osteoarthritis, and pain of the right knee. Regarding Dr. Hurlbut's finding of additional right knee diagnoses, no opinion was offered regarding causal relationship. The Board has held that a medical report that does not offer an opinion on causal relationship is of no probative value.<sup>10</sup> Thus, this evidence is of no probative value and is insufficient to establish expansion of the acceptance of appellant's claim.

OWCP also received reports by Ms. Pika and Ms. Ferguson, advanced practice registered nurses. The Board has held that medical reports signed solely by a nurse, physician assistant, or physical therapist are of no probative value, as such healthcare providers are not considered physicians as defined under FECA and, therefore, are not competent to provide a medical opinion.<sup>11</sup> Their medical findings, reports and/or opinions, unless cosigned by a qualified physician, will not suffice for purposes of establishing entitlement to FECA benefits.<sup>12</sup>

The remainder of the evidence of record consists of diagnostic studies. The Board has held that diagnostic studies, standing alone, lack probative value on the issue of causal relationship as they do not address whether the accepted employment injury caused any of the additional diagnosed conditions.<sup>13</sup>

As the medical evidence of record is insufficient to establish that the acceptance of appellant's claim should be expanded to include additional right knee conditions as causally related to the accepted December 3, 2020 employment injury, the Board finds that he has not met his burden of proof.

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<sup>9</sup> *B.C., id.; D.B.*, Docket No. 18-1359 (issued May 14, 2019); *Ricky S. Storms*, 52 ECAB 349 (2001).

<sup>10</sup> *A.S.*, Docket No. 21-1263 (issued July 24, 2023); *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

<sup>11</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 supra* note 5 at Chapter 2.805.3a(1) (May 2023); *R.F.*, Docket No. 24-0112 (issued April 15, 2024) (advanced practice nurses are not considered physicians as defined under FECA); *D.H.*, Docket No. 22-1050 (issued September 12, 2023) (nurses and nurse practitioners are not considered physicians as defined under FECA); *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).

<sup>12</sup> *M.D.*, Docket No. 24-0387 (issued May 20, 2024); *M.T.*, Docket No. 23-0251 (issued February 22, 2024); *K.A.*, Docket No. 18-0999 (issued October 4, 2019); *K.W.*, 59 ECAB 271, 279 (2007); *David P. Sawchuk, id.*

<sup>13</sup> *M.T., id.; F.D.*, Docket No. 19-0932 (issued October 3, 2019); *J.S.*, Docket No. 17-1039 (issued October 6, 2017).

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 his burden of proof to expand the acceptance of the claim to include additional right knee conditions as causally related to the accepted December 3, 2020 employment injury.

**ORDER**

**IT IS HEREBY ORDERED THAT** the December 19, 2023 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: September 11, 2024  
Washington, DC

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

Janice B. Askin, Judge  
Employees' Compensation Appeals Board

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