United States Department of Labor
Employees' Compensation Appeals Board

J.M., Appellant	)	
and	)	**Docket No. 25-0186**
	)	**Issued: January 28, 2025**
DEPARTMENT OF VETERANS AFFAIRS, JAMES A. HALEY VETERANS' HOSPITAL, Tampa FL, Employer	)	

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

Case Submitted on the Record

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Chief Judge
PATRICIA H. FITZGERALD, Deputy Chief Judge
JANICE B. ASKIN, Judge

JURISDICTION

On December 17, 2024 appellant filed a timely appeal from July 19 and November 5, 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.[2]

[1] 5 U.S.C. § 8101 *et seq*.

[2] Appellant timely requested oral argument before the Board regarding OWCP's July 19 and November 5, 2024 decisions. 20 C.F.R. § 501.5(b). Pursuant to the Board's *Rules of Procedure*, oral argument may be held in the discretion of the Board. 20 C.F.R. § 501.5(a). Appellant contends that oral argument is needed to show that OWCP did not consider that the injury occurred during a police training event. The Board in exercising its discretion, denies his request for oral argument because this matter pertains to an evaluation of the weight of the medical evidence presented. As such, the arguments on appeal can adequately be addressed in a decision based on a review of the case record. Oral argument in this appeal would further delay issuance of a Board decision and not serve a useful purpose. As such, the oral argument request is denied, and this decision is based on the case record as submitted to the Board.

ISSUE

The issue is whether appellant has met his burden of proof to establish a left lower extremity condition causally related to the accepted April 26, 2024 employment incident.

FACTUAL HISTORY

On May 9, 2024 appellant, then a 53-year-old police officer, filed a traumatic injury claim (Form CA-1) alleging that on April 26, 2024 he injured his left leg, knee, and ankle completing a mandatory one-mile run during a physical abilities test while in the performance of duty. He stopped work on May 9, 2024.

In a May 10, 2024 development letter, OWCP informed appellant of the deficiencies of his claim. It advised him of the type of factual and medical evidence needed to establish his claim and provided a factual questionnaire for his completion. OWCP afforded appellant 60 days to submit the necessary evidence.

On May 20, 2024 Dr. Andrew Henry, a Board-certified endocrinologist, completed a form report, which noted that appellant's left lower leg had been surgically reconstructed and reattached in 1997. He determined that appellant should not participate in long distance running.

In a May 21, 2024 report, Dr. Renee Genova, a physician specializing in orthopedic surgery, related that appellant could return to work on May 21, 2024 with no long distance running. She completed treatment notes of even date diagnosing sequela of an open fracture of the proximal end of the left tibia, and patellofemoral syndrome of the left knee with contributing etiologies including quadriceps atrophy and pes planus. Dr. Genova related that appellant was unable to complete his mile run for his position in law enforcement. She reviewed x-ray studies of the left knee dated May 21, 2024.

In a follow-up development letter dated June 6, 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 May 10, 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.

OWCP continued to receive evidence including additional copies of the May 21, 2024 lower extremity x-rays. On June 5, 2024 a physical therapist, Morgan Baldwin, completed treatment notes.

On June 5 and July 3, 2024 Dr. Genova completed form reports and related that appellant should not perform long-distance running. In July 2, 2024 notes, she again listed his lower extremity conditions as status post open fracture of the upper end of the left tibia, patellofemoral syndrome of the left knee, pes planus of the left foot, and pes anserinus of the left knee.

Dr. Genova completed a June 25, 2024 attending physician's report (Form CA-20) relating that appellant had worked with multiple law enforcement agencies, and that he injured himself on the job. She diagnosed patellofemoral disorders left knee and found that because of continued pain he was unable to run to the extent required for his position. Dr. Genova indicated that appellant's initial injury was in 1997.

By decision dated July 19, 2024, OWCP denied appellant's traumatic injury claim, finding that the medical evidence of record was insufficient to establish causal relationship between the diagnosed conditions and the accepted April 26, 2024 employment incident.

On August 19, 2024 appellant requested a review of the written record by a representative of OWCP's Branch of Hearings and Review.

OWCP received additional evidence. On February 13, 2024 an employing establishment physician found that appellant was medically qualified for his position. On August 20, 2024 Dr. Genova related that appellant should not run to avoid exacerbation of the symptoms of pes anserine tendinitis. She completed a September 24, 2024 Form CA-20 and diagnosed patellofemoral disorders left knee. Dr. Genova related that appellant's symptoms were initiated and aggravated by running long distances repeatedly.

By decision dated November 5, 2024, OWCP's hearing representative affirmed the July 19, 2024 decision.

LEGAL PRECEDENT

An employee seeking benefits under FECA[3] 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,[4] 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.[5] 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.[6]

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. First, the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time and place, and in the manner alleged. Second, the employee must submit sufficient evidence to establish that the employment incident caused an injury.[7]

The medical evidence required to establish causal relationship is rationalized medical opinion evidence.[8] The opinion of the physician must be based on a complete factual and medical

[3] *Supra* note 1.

[4] *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).

[5] *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).

[6] *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).

[7] *T.J.*, Docket No. 19-0461 (issued August 11, 2020); *K.L.*, Docket No. 18-1029 (issued January 9, 2019); *John J. Carlone*, 41 ECAB 354 (1989).

[8] *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).

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 identified by the employee.[9]

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.[10]

In a case where a preexisting condition involving the same part of the body is present and the issue of causal relationship therefore involves aggravation, acceleration, or 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.[11]

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish a left lower extremity condition causally related to the accepted April 26, 2024 employment incident.

In reports dated June 25 and August 20, 2024, Dr. Genova indicated that appellant's left leg conditions were attributed to his federal employment. She related that he was injured on the job and that he should not run to avoid an exacerbation of his left leg conditions. Dr. Genova completed a September 24, 2024 Form CA-20 and diagnosed patellofemoral disorders left knee. She related that appellant's symptoms were initiated and aggravated by repetitive long distance runs. While Dr. Genova indicated that appellant's medical condition was work-related, she failed to provide medical rationale explaining the basis of her opinion. Without explaining, physiologically, how the specific employment incident caused or aggravated a diagnosed condition, Dr. Genova's opinion on causal relationship is of limited probative value and insufficient to establish the claim.[12]

In reports dated May 21 through July 3, 2024, Dr. Genova provided diagnoses. However, in these reports, she failed to offer an opinion on causal relationship. On February 13, 2024 an employing establishment physician found that appellant was medically qualified for his position, while May 20, 2024 Dr. Henry noted that appellant's left lower leg had been surgically reconstructed and reattached in 1997. He determined that appellant should not participate in long-distance running. The Board has held that medical evidence that does not offer an opinion regarding the cause of an employee's condition or disability is of no probative value on the issue

[9] *T.L.*, Docket No. 18-0778 (issued January 22, 2020); *Y.S.*, Docket No. 18-0366 (issued January 22, 2020); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

[10] *T.H.*, Docket No. 18-1736 (issued March 13, 2019); *Dennis M. Mascarenas*, 49 ECAB 215 (1997).

[11] Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3e (January 2013).

[12] *L.B.*, Docket No. 24-0833 (issued November 5, 2024); *G.L.*, Docket No. 18-1057 (issued April 14, 2020); *J.P.*, 59 ECAB 178 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

of causal relationship.[13] Thus, the Board finds that these reports are insufficient to establish the claim.

Appellant submitted a June 5, 2024 note from a physical therapist. Certain healthcare providers such as physical therapists are not considered physician[s] as defined under FECA.[14] Consequently, these notes will not suffice for purposes of establishing appellant's claim.[15]

The record also contains x-ray studies. The Board has held, however, that diagnostic studies, standing alone, lack probative value on the issue of causal relationship as they do not address whether the accepted employment incident resulted in appellant's diagnosed medical conditions.[16]

As the medical evidence of record is insufficient to establish causal relationship between a medical condition and the accepted April 26, 2024 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(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 establish a left lower extremity condition causally related to the accepted April 26, 2024 employment incident.

[13] *See L.B., id.*; *S.H.*, Docket No. 19-1128 (issued December 2, 2019); *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

[14] 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). *See also* 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); *R.T.*, Docket No. 24-0866 (issued November 21, 2024) (physical therapist are not considered physicians as defined by FECA).

[15] *Id.*

[16] *L.A.*, Docket No. 22-0463 (issued September 29, 2022); *D.K.*, Docket No. 21-0082 (issued October 26, 2021); *O.C.*, Docket No. 20-0514 (issued October 8, 2020); *R.J.*, Docket No. 19-0179 (issued May 26, 2020).

ORDER

IT IS HEREBY ORDERED THAT the July 19 and November 5, 2024 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: January 28, 2025
Washington, DC

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

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board