

**United States Department of Labor  
Employees' Compensation Appeals Board**

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S.M., Appellant )

and )

U.S. POSTAL SERVICE, MORGAN )  
PROCESSING & DISTRIBUTION CENTER, )  
New York, NY, Employer )

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**Docket No. 21-0937  
Issued: December 21, 2021**

*Appearances:*  
Thomas S. Harkins, Esq., for the appellant<sup>1</sup>  
Office of Solicitor, for the Director

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

JANICE B. ASKIN, Judge  
PATRICIA H. FITZGERALD, Alternate Judge  
VALERIE D. EVANS-HARRELL, Alternate Judge

**JURISDICTION**

On June 7, 2021 appellant, through counsel, filed a timely appeal from a January 5, 2021 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act<sup>2</sup> (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

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<sup>1</sup> In all cases in which a representative has been authorized in a matter before the Board, no claim for a fee for legal or other service performed on appeal before the Board is valid unless approved by the Board. 20 C.F.R. § 501.9(e). No contract for a stipulated fee or on a contingent fee basis will be approved by the Board. *Id.* An attorney or representative's collection of a fee without the Board's approval may constitute a misdemeanor, subject to fine or imprisonment for up to one year or both. *Id.*; *see also* 18 U.S.C. § 292. Demands for payment of fees to a representative, prior to approval by the Board, may be reported to appropriate authorities for investigation.

<sup>2</sup> 5 U.S.C. § 8101 *et seq.*

## ISSUE

The issue is whether appellant has met her burden of proof to establish a medical condition causally related to accepted factors of her federal employment.

## FACTUAL HISTORY

On June 25, 2019 appellant, then a 54-year-old supervisor of distribution operations, filed an occupational disease claim (Form CA-2) alleging that she developed back, bilateral knee, and bilateral foot conditions as a result of factors of her federal employment. She noted that she first became aware of her condition on November 27, 2017 and realized its relationship to her federal employment on November 27, 2018. Appellant stopped work on November 12, 2018.

In an August 8, 2019 development letter, OWCP informed appellant of the deficiencies of her claim. It advised her of the type of factual and medical evidence needed and provided a questionnaire for her completion. By separate development letter of even date, OWCP requested additional information from the employing establishment, including comments from a knowledgeable supervisor on the accuracy of appellant's statements. It afforded appellant 30 days to provide the requested information.

In response, appellant submitted a completed questionnaire signed on August 21, 2019. She attributed the claimed conditions to repetitive walking, pushing, pulling, and bending while transporting mail back and forth over the distance of a long city block for nine hours a shift.

In a November 27, 2017 report, Dr. Ronald M. Chase, an orthopedic surgeon, diagnosed degenerative arthritis of both knees, lumbar herniated discs, lumbosacral radiculitis, and calcaneal spurs. He noted that these conditions had been confirmed by x-rays and magnetic resonance imaging (MRI) scans.

November 27, 2017 x-rays of the lumbar spine and left heel interpreted by Dr. Parashuram Pinnapureddy, a Board-certified radiologist, demonstrated mild degenerative spondylosis with levoscoliosis of the thoracolumbar spine, and calcaneal spurs.

In a July 24, 2018 report, Dr. Chase noted appellant's symptoms of lumbar pain radiating into the lower extremities with bilateral paresthesias and weakness. On examination, he noted lumbar spasm, restricted lumbar motion, bilaterally positive straight leg raising tests, and bilateral lower extremity strength at 4-5/5. Dr. Chase noted that a lumbar MRI scan demonstrated multiple herniated discs with spinal cord and nerve root impingement.

In a report dated September 18, 2018, Dr. Chase noted complaints of pain and swelling in the dorsum of the right foot and bilateral heel pain, which appellant attributed to "extensive standing and walking at work." On examination, he found swelling and bony deformity in the dorsum of the right midfoot. Dr. Chase diagnosed arthritis of the right ankle and right foot, and bilateral calcaneal spurs. He recommended heel cups, orthotics, and range of motion exercises.

OWCP received periodic reports by Dr. Chase dated from October 9, 2018 through February 12, 2019 noting continued lumbar, bilateral knee, right ankle, and right foot symptoms.

An x-ray of the right knee dated January 29, 2019 revealed mild degenerative changes and inferior patellar enthesopathy.

In a May 14, 2019 report, Dr. Chase diagnosed a left knee contusion with a flare-up of left knee arthritis following a fall while at work.

By decision dated November 4, 2019, OWCP accepted that the identified work factors had occurred as alleged and that the medical record contained definite diagnoses. It denied the claim, however, finding that the medical evidence of record was insufficient to establish causal relationship between appellant's diagnosed lumbar and bilateral lower extremity conditions and the accepted employment factors.

On October 29, 2020 appellant, through counsel, requested reconsideration of OWCP's November 4, 2019 decision, arguing that new medical evidence was sufficient to meet appellant's burden of proof to establish causal relationship. He submitted an October 29, 2019 attending physician's report (Form CA-20) by Dr. Chase, who noted that appellant had developed chronic "pain from work." Dr. Chase listed concurrent or preexisting conditions of degenerative arthritis of the left knee and chronic low back pain. On examination, he observed lumbar paraspinal muscle tenderness, radiculopathy into both lower extremities, and left knee swelling. Dr. Chase diagnosed a left knee contusion and a lumbosacral myofascial strain. He checked a box marked "Yes" indicating his support for causal relationship, noting that appellant had developed chronic pain in her left knee and lower back related to employment activities. Dr. Chase found appellant totally disabled from work commencing November 27, 2018 and returned her to sedentary work.

In a November 10, 2020 report, Dr. Chase noted that appellant's knees and lumbar spine had been symptomatic for several years. On examination, he observed an antalgic gait favoring the left lower extremity, bilateral patellar crepitus on range of motion, bilateral knee stiffness, mild instability of the left knee, paraspinal muscle tenderness with mild spasms, bilaterally positive straight leg raising tests, and lower extremity motor strength of 4-5/5 bilaterally. Dr. Chase reviewed November 4, 2020 bilateral knee x-ray reports, which demonstrated bilateral inferior patellar enthesopathy and effusions. He also reviewed reports of lumbar x-rays and a lumbar MRI scan obtained on November 4, 2020, which demonstrated a grade 1 degenerative anterolisthesis at L4-5 contributing to mild spinal canal stenosis, a central L4-5 disc protrusion with left lateral herniation, a left central L5-S1 disc herniation, and levoscoliosis. Dr. Chase diagnosed bilateral degenerative knee arthritis, L4-5 and L5-S1 disc herniations, and lumbosacral radiculitis. He prescribed medication and noted work restrictions.

By decision dated January 5, 2021, OWCP denied modification of the November 4, 2019 decision.

## 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,<sup>4</sup> 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.<sup>5</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>6</sup>

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit: (1) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; (2) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; and (3) medical evidence establishing that the diagnosed condition is causally related to the identified employment factors.<sup>7</sup>

Causal relationship is a medical question that requires rationalized medical opinion evidence to resolve the issue.<sup>8</sup> 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.<sup>9</sup>

In any 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,

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<sup>3</sup> *Supra* note 2.

<sup>4</sup> *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).

<sup>5</sup> *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).

<sup>6</sup> *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).

<sup>7</sup> *T.W.*, Docket No. 20-0767 (issued January 13, 2021); *L.D.*, Docket No. 19-1301 (issued January 29, 2020); *S.C.*, Docket No. 18-1242 (issued March 13, 2019).

<sup>8</sup> *I.J.*, Docket No. 19-1343 (issued February 26, 2020); *T.H.*, 59 ECAB 388 (2008); *Robert G. Morris*, 48 ECAB 238 (1996).

<sup>9</sup> *D.C.*, Docket No. 19-1093 (issued June 25, 2020); *see L.B.*, Docket No. 18-0533 (issued August 27, 2018).

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>10</sup>

### ANALYSIS

The Board finds that appellant has not met her burden of proof to establish a medical condition causally related to accepted factors of her federal employment.

In reports dated from November 27, 2017 through November 10, 2020, Dr. Chase diagnosed herniated L4-5 and L5-S1 discs with spinal cord and nerve root impingement, lumbosacral radiculitis, levoscoliosis, degenerative arthritis of both knees, arthritis of the right ankle and foot, and calcaneal spurs. He noted in a September 18, 2018 report that appellant attributed right foot and bilateral heel pain to extensive standing and walking at work. On May 14, 2019 Dr. Chase diagnosed a left knee contusion and flare-up of left knee arthritis after a fall at work on an unspecified date. However, he did not provide an opinion on causal relationship in any of these reports. 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.<sup>11</sup> Therefore, these reports are insufficient to establish appellant's claim.

In an October 29, 2019 Form CA-20 report, Dr. Chase opined, with a checkmark "Yes" that her diagnoses of left knee contusion and a lumbosacral myofascial strain were due to the chronic pain that she experienced from work. He listed concurrent or preexisting conditions of degenerative arthritis of the left knee and chronic low back strain. The Board has held, however, that when a physician's opinion as to the cause of a condition or period of disability consists only of a checkmark on a form, without further explanation or rationale, that opinion is of diminished probative value and is insufficient to establish a claim.<sup>12</sup> Therefore, Dr. Chase's report is insufficient to establish appellant's claim.

Appellant also submitted imaging studies. The Board, however, has explained that diagnostic studies, standing alone, lack probative value as they do not address whether the employment injury caused any of the diagnosed conditions.<sup>13</sup>

As appellant has not submitted rationalized medical evidence establishing a medical condition causally related to the accepted employment factors, the Board finds that she has not met her burden of proof to establish her claim.

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<sup>10</sup> Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3e (January 2013); *G.T.*, Docket No. 21-0170 (issued September 29, 2021); *D.W.*, Docket No. 20-0674 (issued September 29, 2020); *V.W.*, Docket No. 19-1537 (issued May 13, 2020); *N.C.*, Docket No. 19-1191 (issued December 19, 2019); *R.D.*, Docket No. 18-1551 (issued March 1, 2019).

<sup>11</sup> *D.K.*, Docket No. 21-0214 (issued September 29, 2021); *S.W.*, Docket No. 19-1579 (issued October 9, 2020); *see L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

<sup>12</sup> *See A.C.*, Docket No. 21-0087 (issued November 9, 2021); *O.M.*, Docket No. 18-1055 (issued April 15, 2020); *Gary J. Watling*, 52 ECAB 278 (2001).

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 medical condition causally related to accepted factors of her federal employment.

**ORDER**

**IT IS HEREBY ORDERED THAT** the January 5, 2021 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: December 21, 2021  
Washington, DC

Janice B. Askin, Judge  
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Alternate Judge  
Employees' Compensation Appeals Board

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