

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

Y.M., Appellant	)	
	)	
and	)	Docket No. 20-1055
	)	Issued: February 24, 2021
U.S. POSTAL SERVICE, CHESTER POST	)	
OFFICE, Chester, PA, 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, Alternate Judge  
VALERIE D. EVANS-HARRELL, Alternate Judge

**JURISDICTION**

On April 21, 2020 appellant filed a timely appeal from a February 5, 2020 merit decision of the Office of Workers' Compensation Programs (OWCP).<sup>1</sup> Pursuant to the Federal Employees'

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<sup>1</sup> Appellant submitted a timely request for oral argument before the Board. 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). In support of her oral argument request, appellant asserted that oral argument should be granted because her claimed injury had occurred on a different date than indicated by the employing establishment, that she has been experiencing pain ever since, and that, although she apprised her supervisor of the injury, "no recourse was taken." The Board, in exercising its discretion, denies appellant's request for oral argument because 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.

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.<sup>3</sup>

### **ISSUE**

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

### **FACTUAL HISTORY**

On December 12, 2019 appellant, then a 49-year-old city carrier, filed an occupational disease claim (Form CA-2) alleging that she developed a torn meniscus and swelling in both knees due to factors of her federal employment. On the reverse side of the claim form appellant's supervisor noted that appellant had begun work with the employing establishment in May 2019 and had requested light-duty work.

By a letter dated December 23, 2019, the employing establishment challenged appellant's claim. It noted that, per station management, appellant began working at the employing establishment in May 2019 and had been seen wearing knee braces at the time. The employing establishment contended that appellant had not established fact of injury and that her claim should be denied.

In a development letter dated January 2, 2020, 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. OWCP afforded appellant 30 days to respond. By a separate letter of even date, it also requested additional factual information from the employing establishment regarding the physical requirements of her employment duties.

On January 12, 2020 appellant responded to OWCP's development questionnaire. She explained that, as of June 4, 2019, she had been promoted to the position of regular city carrier and assigned to a long route that involved walking up flights of stairs. Appellant alleged that her knees "had a problem" with the amount of climbing required. Within a month of assignment, she noticed pain and swelling in her knees, and she purchased knee braces to wear daily. Appellant denied any preexisting conditions or the wearing of knee braces prior to the assignment of the route. She stated that she had reported the incident in June 2019, but that no actions were taken until the knee pain was unbearable. Appellant noted that she had been diagnosed with a torn meniscus and bilateral fluid on the knees in August 2019. She requested that she be permitted to perform her assigned work duties on a more suitable route.

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

<sup>3</sup> The Board notes that, following the February 5, 2020 decision, OWCP received additional evidence. However, the Board's *Rules of Procedure* provides: "The Board's review of a case is limited to the evidence in the case record that was before OWCP at the time of its final decision. Evidence not before OWCP will not be considered by the Board for the first time on appeal." 20 C.F.R. § 501.2(c)(1). Thus, the Board is precluded from reviewing this additional evidence for the first time on appeal. *Id.*

On February 3, 2020 OWCP received a position description, which outlined a letter carrier's duties and responsibilities.

By decision dated February 5, 2020, OWCP accepted that the employment factors had occurred, as alleged. It denied the claim, however, as appellant had not submitted medical evidence containing a diagnosed medical condition in connection with the accepted employment factors. OWCP concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA<sup>4</sup> has the burden of proof to establish the essential elements of his or her claim, including the fact 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>5</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>6</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>7</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>8</sup>

### **ANALYSIS**

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

In its January 2, 2020 development letter, OWCP noted that it had not received any medical evidence, which established a diagnosed medical condition resulting from factors of appellant's federal employment. It provided her 30 days to submit the requested medical evidence. It is appellant's burden of proof to obtain and submit medical documentation containing a firm

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<sup>4</sup> *Supra* note 2.

<sup>5</sup> *J.P.*, Docket No. 19-0129 (issued April 26, 2019); *S.B.*, Docket No. 17-1779 (issued February 7, 2018); *Joe D. Cameron*, 41 ECAB 153 (1989).

<sup>6</sup> *J.M.*, Docket No. 17-0284 (issued February 7, 2018); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

<sup>7</sup> *R.R.*, Docket No. 19-0048 (issued April 25, 2019); *L.M.*, Docket No. 13-1402 (issued February 7, 2014); *Delores C. Ellyett*, 41 ECAB 992 (1990).

<sup>8</sup> *L.D.*, Docket No. 19-1301 (issued January 29, 2020); *S.C.*, Docket No. 18-1242 (issued March 13, 2019); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

diagnosis causally related to the accepted employment factors.<sup>9</sup> As appellant has not submitted rationalized medical evidence establishing a diagnosed medical condition causally related to the accepted factors of her federal employment, she has not met her burden of proof to establish her claim.<sup>10</sup>

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

**ORDER**

**IT IS HEREBY ORDERED THAT** the February 5, 2020 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: February 24, 2021  
Washington, DC

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

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

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

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<sup>9</sup> See *C.W.*, Docket No. 20-1027 (issued November 18, 2020).

<sup>10</sup> See *M.O.*, Docket No. 19-1398 (issued August 13, 2020); *J.T.*, Docket No. 18-1755 (issued April 4, 2019).