



## ISSUE

The issue is whether appellant has met his burden of proof to establish a left knee injury causally related to the accepted May 21, 2018 employment incident.

## FACTUAL HISTORY

On August 13, 2018 appellant, then a 61-year-old electrician, filed a traumatic injury claim (Form CA-1) alleging that on May 21, 2018 he sustained an injury to his left knee while in the performance of duty. He explained that he was walking down the stairs and some contractors left “materials and stuff on [the] stairs.” On the reverse side of the claim form appellant’s supervisor checked a box marked “No” to indicate his opinion that appellant was not in the performance of duty because appellant could not confirm a witness and he was not working on anything that was assigned to him. Appellant did not stop work.

Appellant submitted a May 21, 2018 evaluation note from Dr. James Schmitt, Board-certified in occupational medicine, who provided work restrictions.

In a May 22, 2018 medical report, appellant informed Dr. Schmitt that he was walking down the steps at work, missed a step and lurched forward and that he attempted to regain his balance and twisted his left knee in the process. Dr. Schmitt diagnosed a left knee strain, advised that appellant stay home until May 29, 2018, and referred appellant to physical therapy.

In reports dated from May 22 to June 13, 2018, Terry Black, a physical therapist, evaluated appellant for his left knee strain and provided updates on his treatment. His June 13, 2018 report revealed that appellant underwent a magnetic resonance imaging (MRI) scan of the left knee that demonstrated multiple tears of the medial meniscus with chondromalacia of the patella and femoral condyle.

Dr. Lawrence Yao, a Board-certified radiologist, reported on June 8, 2018 that he performed an MRI scan of appellant’s left knee, finding a large undersurface tear involving the posterior horn and posterior mid body of the medial meniscus, a small associated anteriorly displaced flap situated near the posterior root of the medial meniscus, and extensive high-grade patellar chondromalacia.

In a July 27, 2018 medical report, Dr. Darlene Jean-Pierre, a Board-certified orthopedic surgeon, indicated that she evaluated appellant for a left knee injury he related was sustained on May 21, 2018 when he fell down the stairs at work. She observed that an MRI scan of his left knee taken on June 8, 2018, as well as a July 27, 2018 x-ray scan of his left knee, revealed an undersurface tear in the posterior horn medial meniscus, degenerative changes in the posterior horn lateral meniscus, effusion and moderate degenerative changes at the patellofemoral joint. Dr. Jean-Pierre diagnosed a tear of the medial meniscus of the left knee due to the May 21, 2018 incident in which appellant fell down the stairs. She suggested that he undergo surgery to treat his condition. In a medical note of even date, Dr. Jean-Pierre provided work restrictions from July 27 through September 30, 2018.

In an August 7, 2018 note, Mr. Black provided additional work restrictions.

In a development letter dated August 24, 2018, OWCP advised appellant of the factual and medical evidence necessary to establish his claim and provided a factual questionnaire for his completion. OWCP afforded him 30 days to provide the necessary information. No additional evidence was received.

By decision dated October 11, 2018, OWCP denied appellant's traumatic injury claim, finding that the evidence of record was insufficient to establish that the alleged May 21, 2018 employment incident occurred as alleged. It concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

By request form dated November 1, 2018, postmarked November 6, 2018, and received by OWCP on November 15, 2018, appellant requested an oral hearing before a representative of OWCP's Branch of Hearings and Review. In an attached letter, he explained that on May 21, 2018, while at work, he was called to the control room by a shift supervisor. Appellant indicated that, while on the way to the control room, he was walking past contractors who put materials and a ventilator tube in the stairway area. When moving past the materials, he tripped on the stairs and injured his left knee. The next day appellant could barely move his leg so he informed his supervisor and went to occupation medical services. He also noted that he had no preexisting conditions or history of fainting spells. Appellant attached a photograph of the stairs where his injury occurred.

Appellant submitted medical evaluation forms dated from May 21 to August 7, 2018 in which Mr. Black provided work restrictions for May 21 to September 30, 2018.

In a September 21, 2018 response to OWCP's questionnaire, appellant again explained that he was called to the control room to check on a unit when a ventilation tube and a box of materials on the stairs caused him to fall. The resulting injury was a left knee lateral meniscus tear. Appellant contended that he was on the employing establishment's premises and performing his normal duties when his injury occurred. He also asserted that he had no prior injuries, did not sustain any other injuries, and had no history of fainting spells or similar disabilities.

In a December 31, 2018 medical report, Dr. Jean-Pierre indicated that appellant underwent a left knee arthroscopic partial medial and lateral meniscectomy on September 12, 2018. Appellant had since begun physical therapy and requested clearance to return to work. Dr. Jean-Pierre opined that he could return to work without restrictions on January 2, 2019.

At a telephonic hearing held on February 26, 2019, appellant reviewed the history of the alleged May 21, 2018 employment incident, as well as his subsequent medical treatment for a left knee meniscus tear, including arthroscopic surgery in September 2018. The hearing representative explained that additional medical evidence addressing causal relationship was needed and held the case record open for 30 days for additional evidence.

By decision dated April 25, 2019, OWCP's hearing representative modified OWCP's October 11, 2018 decision, finding that appellant had established that the May 21, 2018 employment incident had occurred as alleged and that the medical evidence of record established a diagnosed medical condition. However, the claim remained denied as the hearing representative

found that the evidence of record was insufficient to establish causal relationship between the diagnosed condition and the accepted May 21, 2018 employment incident.

OWCP continued to receive evidence. In a January 2, 2019 medical evaluation form, Dr. Jean-Pierre advised that appellant was prepared to return to work as of January 2, 2019.

In medical reports dated May 8 and 22, 2019, Dr. Jean-Pierre evaluated appellant's left knee after his September 12, 2018 left knee arthroscopic partial medial and lateral meniscectomy. She noted that corticosteroid injections to his left knee helped to alleviate his pain and diagnosed patellofemoral pain syndrome of the left knee and arthritis of the left knee, status post left knee arthroscopy. On May 22, 2019 Dr. Jean-Pierre administered another corticosteroid injection to appellant's left knee.

On April 6, 2020 appellant, through counsel, requested reconsideration of OWCP's April 25, 2019 decision. Counsel attached a copy of Dr. Jean-Pierre's July 27, 2018 medical report.

By decision dated April 27, 2020, OWCP denied modification of its April 25, 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 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 period 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 determine whether a federal employee has sustained a traumatic injury in the performance of duty, OWCP begins with an analysis of whether fact of injury has been established. Fact of injury consists of two components that must be considered in conjunction with one another. The first component is whether the employee actually experienced the employment incident that

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<sup>3</sup> *Id.*

<sup>4</sup> *M.O.*, Docket No. 19-1398 (issued August 13, 2020); *S.B.*, Docket No. 17-1779 (issued February 7, 2018); *Joe D. Cameron*, 41 ECAB 153 (1989).

<sup>5</sup> *J.R.*, Docket No. 20-0496 (issued August 13, 2020); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

<sup>6</sup> *B.M.*, Docket No. 19-1341 (issued August 12, 2020); *L.M.*, Docket No. 13-1402 (issued February 7, 2014); *Delores C. Ellyett*, 41 ECAB 992 (1990).

allegedly occurred.<sup>7</sup> The second component is whether the employment incident caused a personal injury.<sup>8</sup>

Causal relationship is a medical question that requires rationalized medical opinion evidence to resolve the issue.<sup>9</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 incident identified by the claimant.<sup>10</sup>

### ANALYSIS

The Board finds that appellant has not met his burden of proof to establish a left knee injury causally related to the accepted May 21, 2018 employment incident.

In the July 27, 2018 medical report, Dr. Jean-Pierre evaluated appellant's left knee in relation to the May 21, 2018 employment incident in which he fell down the stairs at work. On review of an MRI scan and an x-ray scan of the left knee, she diagnosed a tear of the medial meniscus of the left knee due to the May 21, 2018 incident in which he fell down the stairs. While Dr. Jean-Pierre's medical report generally supported causal relationship, she did not offer any medical rationale sufficient to explain how and why she believed that the May 21, 2018 employment incident could have resulted in or contributed to appellant's diagnosed condition. Without explaining the mechanism of how falling down the stairs at work caused or contributed to appellant's injury, her July 27, 2018 medical report is of limited probative value.<sup>11</sup>

Dr. Jean-Pierre's remaining evidence consisted of medical reports dated from December 31, 2018 to May 22, 2019, as well as a January 1, 2019 medical evaluation form. This evidence indicated that appellant underwent a left knee arthroscopic partial medial and later meniscectomy on September 12, 2018 and had since received corticosteroid injections and participated in physical therapy to aid in his recovery. 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>12</sup> For this reason, Dr. Jean-Pierre remaining evidence is insufficient to meet appellant's burden of proof.

On May 21, 2018, Dr. Schmitt treated appellant and provided work restrictions. However, he did not offer an opinion on causation and, therefore, his report is of no probative value.<sup>13</sup> In his

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<sup>7</sup> *T.J.*, Docket No. 19-0461 (issued August 11, 2020); *Elaine Pendleton*, 40 ECAB 1143 (1989).

<sup>8</sup> *D.M.*, Docket No. 20-0386 (issued August 10, 2020); *John J. Carlone*, 41 ECAB 354 (1989).

<sup>9</sup> *A.R.*, Docket No. 19-0465 (issued August 10, 2020); *Jacqueline M. Nixon-Steward*, 52 ECAB 140 (2000).

<sup>10</sup> *W.L.*, Docket No. 19-1581 (issued August 5, 2020); *Leslie C. Moore*, 52 ECAB 132 (2000).

<sup>11</sup> *See A.P.*, Docket No. 19-0224 (issued July 11, 2019).

<sup>12</sup> *S.J.*, Docket No. 19-0696 (issued August 23, 2019); *M.C.*, Docket No. 18-0951 (issued January 7, 2019).

<sup>13</sup> *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018)

May 22, 2018 medical report, Dr. Schmitt noted that appellant was walking down the steps at work, missed a step and twisted his left knee as he attempted to regain his balance. He diagnosed a left knee strain, held appellant off work until May 29, 2018 and referred appellant to physical therapy. As stated previously, however, without explaining how falling down the stairs at work caused or contributed to appellant's condition, Dr. Schmitt's May 22, 2018 medical report is of limited probative value.<sup>14</sup>

Appellant submitted a June 8, 2018 diagnostic report in which Dr. Yao performed an MRI scan of appellant's left knee, finding a large undersurface tear involving the posterior horn and posterior mid body of the medial meniscus, a small associated anteriorly displaced flap situated near the posterior root of the medial meniscus and extensive high-grade patellar chondromalacia. The Board has held, however, that diagnostic test reports standing alone lack probative value on the issue of causal relationship as they do not address the relationship between accepted employment factors and a diagnosed condition.<sup>15</sup> For this reason, Dr. Yao's June 8, 2018 diagnostic report is insufficient to meet appellant's burden of proof.

The remaining medical evidence consists of therapy notes dated May 22 to August 7, 2018 from a physical therapist. Certain healthcare providers such as physical therapists, nurses, physician assistants, and social workers are not considered physicians as defined under FECA.<sup>16</sup> Consequently, their medical findings and/or opinions will not suffice for purposes of establishing entitlement to FECA benefits.

As appellant has not submitted rationalized medical evidence establishing that his left knee injury is causally related to the accepted May 21, 2018 employment incident, the Board finds that he 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.

### **CONCLUSION**

The Board finds that appellant has not met his burden of proof to establish a left knee injury causally related to the accepted May 21, 2018 employment incident.

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<sup>14</sup> *Supra* note 11.

<sup>15</sup> *W.M.*, Docket No. 19-1853 (issued May 13, 2020); *L.F.*, Docket No. 19-1905 (issued April 10, 2020).

<sup>16</sup> 5 U.S.C. § 8101(2); 20 C.F.R. § 10.5(t); *see M.F.*, Docket No. 17-1973 (issued December 31, 2018); *K.W.*, 59 ECAB 271, 279 (2007); *David P. Sawchuk*, 57 ECAB 316, 320 n.11 (2006). A report from a physician assistant or certified nurse practitioner will be considered medical evidence if countersigned by a qualified physician. Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3a(1) (January 2013).

**ORDER**

**IT IS HEREBY ORDERED THAT** the April 27, 2020 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: February 9, 2021  
Washington, DC

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

Janice B. Askin, Judge  
Employees' Compensation Appeals Board

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