

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

C.C., Appellant	)	
	)	
and	)	<b>Docket No. 22-1126</b>
	)	<b>Issued: May 8, 2023</b>
U.S. POSTAL SERVICE, SECTION 2 CARRIER	)	
ANNEX, BRENTWOOD POST OFFICE,	)	
Washington, DC, Employer	)	
	)	

*Appearances:* *Case Submitted on the Record*  
*Appellant, pro se*  
*Office of Solicitor, for the Director*

**DECISION AND ORDER**

Before:  
PATRICIA H. FITZGERALD, Deputy Chief Judge  
VALERIE D. EVANS-HARRELL, Alternate Judge  
JAMES D. MCGINLEY, Alternate Judge

**JURISDICTION**

On July 27, 2022 appellant filed a timely appeal from an April 21, 2022 merit decision and a July 20, 2022 nonmerit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act<sup>1</sup> (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.<sup>2</sup>

**ISSUES**

The issues are: (1) whether appellant has met her burden of proof to establish a diagnosed medical condition in connection with the accepted January 11, 2022 employment

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<sup>1</sup> 5 U.S.C. § 8101 *et seq.*

<sup>2</sup> The Board notes that, following the issuance of OWCP's July 20, 2022 decision, appellant submitted additional evidence. However, the Board's *Rules of Procedure* provides: "The Board's review of a case is limited to the evidence in the caserecord 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.*

incident; and (2) whether OWCP properly denied appellant's request for reconsideration of the merits of her claim under 5 U.S.C. § 8128(a).

### **FACTUAL HISTORY**

On March 3, 2022 appellant, then a 31-year-old letter carrier, filed a traumatic injury claim (Form CA-1) alleging that on January 11, 2022 she sustained bilateral knee injuries when she was involved in a motor vehicle accident (MVA) while in the performance of duty. On the reverse side of the claim form, appellant's supervisor acknowledged that appellant was injured in the performance of duty. Appellant stopped work on January 12, 2022.

In support of her claim, appellant submitted an employing establishment employee statement dated January 11, 2022. She indicated that her vehicle was struck from the left at an intersection, and that she hit her left knee. In a statement dated March 2, 2022, appellant reiterated the narrative of the MVA. She also submitted a police report indicating the location and nature of the incident.

A report dated January 11, 2022 from a medical center emergency department noted that appellant was seen by Andre Campbell, a physician assistant, for contusion of both knees resulting from an MVA. Mr. Campbell instructed her regarding care for her knee contusions.

On January 13, 2022 appellant was seen by a physician whose signature is illegible. She was allowed to return to work on January 17, 2022, but instructed to avoid/minimize stairs and minimize flexion of the knees.

Appellant submitted a work status note dated January 24, 2022 from Olukemi Moreira-Wilson, a physician assistant, who returned appellant to work at light duty on January 24, 2022 and referred her to physical therapy. Ms. Moreira-Wilson diagnosed bilateral knee strain.

OWCP received a duty status report (Form CA-17) dated January 24, 2022 signed by Ms. Moreira-Wilson, who diagnosed bilateral knee strain. Ms. Moreira-Wilson advised appellant to return to work on January 24, 2022. OWCP received additional CA-17 forms dated January 28 and March 2, 2022, reiterating the diagnosis and continuing to allow appellant to work with restrictions.

OWCP also received physical therapy records commencing January 26, 2022.

Appellant submitted a work status note from Dr. Lawrence Manning, an orthopedic surgeon, dated February 9, 2022, continuing to allow appellant to work light duty. In a subsequent work status note dated March 2, 2022, Dr. Manning related appellant's diagnosis as bilateral knee strain.

In a development letter dated March 17, 2022, OWCP informed appellant that additional factual and medical evidence was necessary to establish her claim. It afforded her 30 days to respond.

OWCP received a Form CA-17 dated April 1, 2022 by Ms. Moreira-Wilson reiterating the same diagnosis and continuing to allow appellant to work with restrictions.

An x-ray report dated March 19, 2022 from Dr. Gregory Bender, a Board-certified radiologist, indicated contusion or intrasubstance tear of the Hoffa's fat pad along the inferior margin of the patella in appellant's right knee. An underlying right knee joint effusion was also found.

By decision dated April 21, 2022, OWCP found that the incident had occurred as alleged, but denied appellant's traumatic injury claim, finding that the evidence of record was insufficient to establish a medical diagnosis in connection with the accepted employment incident. It concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

OWCP continued to receive medical evidence. A work status note dated March 25, 2022 by Ms. Moreira-Wilson continued to allow appellant to work light duty and recommended continued physical therapy. The note indicated a diagnosis of bilateral knee strain. In a subsequent work status note dated April 22, 2022, Ms. Moreira-Wilson continued to allow appellant to work light duty and recommended home exercises in lieu of physical therapy. She again diagnosed right knee strain.

OWCP received an attending physician's report (Form CA-20) dated April 23, 2022 by Ms. Moreira-Wilson, who diagnosed right knee sprain/strain and right knee contusion. Ms. Moreira-Wilson checked a box marked "Yes" in response to the question of whether she believed the alleged conditions were caused or aggravated by an employment activity and further noted that appellant was driving her postal vehicle at the time of the MVA. The report indicated restrictions on stairs use and squatting. Ms. Moreira-Wilson also advised against activities bearing weight for prolonged periods on the right leg.

On May 10, 2022 appellant requested reconsideration. OWCP also received a statement from appellant dated May 10, 2022 requesting reconsideration and indicating that new evidence was submitted. It also received a copy of the March 19, 2022 magnetic resonance imaging (MRI) scan report.

By decision dated July 20, 2022, OWCP denied appellant's request for reconsideration of the merits of her claim.

### **LEGAL PRECEDENT -- ISSUE 1**

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, 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

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<sup>3</sup> *Supra* note 1.

employment injury.<sup>4</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>5</sup>

To determine whether an employee sustained a traumatic injury in the performance of duty, it must first be determined whether fact of injury has been established. There are two components involved in establishing fact of injury. The first component is whether the employee actually experienced the employment incident at the time and place and in the manner alleged. The second component is whether the employment incident caused a personal injury and can generally be established only by medical evidence.<sup>6</sup>

The medical evidence required to establish causal relationship between a claimed specific condition and an employment incident is rationalized medical opinion evidence.<sup>7</sup> The opinion of the physician must be based on a complete factual and medical 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 factors identified by the employee.<sup>8</sup>

### **ANALYSIS -- ISSUE 1**

The Board finds that appellant has met her burden of proof to establish bilateral knee contusions causally related to the accepted January 11, 2022 employment incident.

On January 11, 2022 appellant was involved in an MVA and alleged that she sustained bilateral knee injuries. The evidence of record indicates that appellant was seen on that date by Mr. Campbell, a physician assistant, who noted that appellant had sustained bilateral knee contusions. The Board finds that the diagnosis of contusion was consistent with appellant's physical examination and the mechanism of injury. This evidence is sufficient to meet the standards set forth in OWCP's procedures for accepting a bilateral knee contusion as it was a minor condition identifiable on visual inspection by a lay person.<sup>9</sup>

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<sup>4</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>5</sup> *B.H.*, Docket No. 20-0777 (issued October 21, 2020); *K.M.*, Docket No. 15-1660 (issued September 16, 2016); *L.M.*, Docket No. 13-1402 (issued February 7, 2014); *Delores C. Ellyett*, 41 ECAB 992 (1990).

<sup>6</sup> *M.H.*, Docket No. 18-1737 (issued March 13, 2019); *John J. Carlone*, 41 ECAB 354 (1989); see 5 U.S.C. § 8101(5) (injury defined); 20 C.F.R. §§ 10.5(ee), 10.5(q) (traumatic injury and occupational disease defined, respectively).

<sup>7</sup> *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).

<sup>8</sup> *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).

<sup>9</sup> See Federal (FECA) Procedure Manual, Part 2 -- Claims, *Initial Development of Claims*, Chapter 2.800.6a (June 2011); Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3c (January 2013). See also *A.J.*, Docket No. 20-0484 (issued September 2, 2020); *S.K.*, Docket No. 18-1411 (issued July 22, 2020); *B.C.*, Docket No. 20-0498 (issued August 27, 2020) (the Board accepted lumbar contusion as causally related to the accepted employment incident); *S.H.*, Docket No. 20-0113 (issued June 24, 2020) (the Board accepted a right ankle contusion as causally related to the accepted employment incident).

As the evidence of record establishes that appellant's employment incident resulted in a visible injury, the Board finds that she has met her burden of proof to establish bilateral knee contusions causally related to the accepted January 11, 2022 employment incident.<sup>10</sup> Upon return of the case record, OWCP shall make payment and/or reimbursement for medical expenses associated with the accepted bilateral knee contusions.<sup>11</sup>

The Board further finds, however, that the case is not in posture for decision with regard to whether appellant has established additional medical conditions causally related to the accepted January 11, 2022 employment injury.

Appellant submitted notes from Dr. Manning dated February 9 and March 2, 2022. In his report dated March 2, 2022, Dr. Manning related a diagnosis of bilateral knee strain. Dr. Bender's MRI scan report dated March 19, 2022 indicated a diagnosis of right knee joint effusion.

As the medical evidence demonstrates that appellant was diagnosed with bilateral knee strain and right joint knee effusion, the case must be remanded for consideration of the medical evidence with regard to the issue of causal relationship.<sup>12</sup> Following this, and other such further development as deemed necessary, OWCP shall issue a *de novo* decision.

### CONCLUSION

The Board finds that appellant has met her burden of proof to establish bilateral knee contusions causally related to the accepted January 11, 2022 employment incident. The Board further finds, however, that the case is not in posture for decision with regard to whether she has established an additional condition causally related to the accepted January 11, 2022 employment injury.<sup>13</sup>

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<sup>10</sup> *Id.*

<sup>11</sup> *T.S.*, Docket No. 21-0570 (issued November 17, 2021).

<sup>12</sup> *M.B.*, Docket No. 21-1236 (issued February 2, 2022) (after finding visible injuries of bulge and contusion based on the reports of nurse practitioners, the Board remanded the case for consideration of the issue of causal relationship based on the physician's diagnosis of pleurodynia).

<sup>13</sup> In light of the disposition of Issue 1, Issue 2 is rendered moot.

**ORDER**

**IT IS HEREBY ORDERED THAT** the April 21, 2022 decision of the Office of Workers' Compensation Programs is reversed in part and affirmed in part. The case is remanded for further proceedings consistent with this decision of the Board. The July 20, 2022 decision of the Office of Workers' Compensation Programs is set aside as moot.

Issued: May 8, 2023  
Washington, DC

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

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

James D. McGinley, Alternate Judge  
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