

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JOSEPH B. SCULLY and U.S. POSTAL SERVICE,
POST OFFICE, Mauston, Wis.

*Docket No. 97-1448; Submitted on the Record;
Issued February 5, 1999*

DECISION and ORDER

Before MICHAEL E. GROOM, BRADLEY T. KNOTT,
A. PETER KANJORSKI

The issue is whether appellant established that his left hip condition was causally related to the accepted work injury.

The Board has carefully reviewed the case record and finds that appellant has failed to meet his burden of proof in establishing that his recurrence of disability resulting from his hip operation was causally related to his 1989 knee injury.

Under the Federal Employees' Compensation Act,¹ an employee who claims a recurrence of disability due to an accepted employment-related injury has the burden of establishing by the weight of the substantial, reliable and probative evidence that the recurrence of the disabling condition, for which compensation is sought is causally related to the accepted employment injury.² As part of this burden the employee must submit rationalized medical evidence from a physician who, on the basis of a complete and accurate factual and medical history, concludes that the current disabling condition is causally related to the accepted employment-related condition,³ and supports that conclusion with sound medical reasoning.⁴

Section 10.121(b) provides that when an employee has received medical care as a result of the recurrence, he or she should arrange for the attending physician to submit a medical report covering the dates of examination and treatment, the history given by the employee, the clinical findings, the results of x-ray and laboratory tests, the diagnosis, the course of treatment, the physician's opinion with medical reasons regarding the causal relationship between the

¹ 5 U.S.C. §§ 8101-8193 (1974).

² *Dennis J. Lasanen*, 43 ECAB 549, 550 (1992).

³ *Kevin J. McGrath*, 42 ECAB 109, 116 (1990).

⁴ *Lourdes Davila*, 45 ECAB 139, 142 (1993).

employee's condition and the original injury, any work limitations or restrictions and the prognosis.⁵

Thus, the medical evidence must demonstrate that the claimed recurrence was caused, precipitated, accelerated or aggravated by the accepted injury.⁶ In this regard, medical evidence of bridging symptoms between the recurrence and the accepted injury must support the physician's conclusion of a causal relationship.⁷ Further, neither the fact that appellant's condition became apparent during a period of employment nor appellant's belief that his condition was caused by his employment is sufficient to establish a causal relationship.⁸

In this case, appellant's claim, filed on January 11, 1989, was accepted for a left knee contusion, based on the medical report of Dr. Timothy R. Hinton, Board-certified in family practice, after appellant slipped on an icy sidewalk and fell on his left knee and leg while delivering mail. Appellant returned to light duty and underwent arthroscopic surgery for a medial meniscus tear in his left knee on May 4, 1989. The Office of Workers' Compensation Programs accepted this condition as well and paid appropriate compensation.

On November 13, 1989 appellant filed a notice of recurrence of disability, claiming that he continued to have pain in his knee, thigh and hip and that his employment as a letter carrier had caused these injuries. On May 22, 1991 appellant accepted a permanent rehabilitation position of custodian. On November 5, 1993 appellant received a schedule award for a 27 percent permanent impairment of his lower left extremity. The award ran from September 9, 1992 to March 7, 1994.

Appellant filed a second notice of recurrence of disability on April 8, 1996, claiming that his left hip replacement, scheduled for April 26, 1996, resulted from the 1989 work injury. On July 30, 1996 the Office denied the claim on the grounds that the medical evidence failed to establish any causal relationship between appellant's left hip condition and the 1989 work injury.

Appellant requested reconsideration and submitted reports from his treating physician, Dr. Diana L. Kruse, a Board-certified orthopedic surgeon. On February 6, 1997 the Office denied appellant's request on the grounds that the evidence was insufficient to warrant modification of its prior decision.

The Board finds that the medical evidence fails to establish that appellant's left hip replacement was causally related to the 1989 work injury. Dr. Kruse mentioned in her August 31, 1989 report that appellant reported "some increased hip and knee pain," that his lateral hip pain had "been present" since the injury and that an x-ray that day showed degenerative changes in the left hip, with some osteophytic spurring. Dr. Kruse concluded that appellant's symptoms were consistent with an aggravation of hip problems from the knee-twisting injury.

⁵ 20 C.F.R. § 10.121(b).

⁶ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.2 (June 1995).

⁷ *Leslie S. Pope*, 37 ECAB 798, 802 (1986); cf. *Richard McBride*, 37 ECAB 748, 753 (1986).

⁸ *Kathryn Haggerty*, 45 ECAB 383, 389 (1994).

However, appellant did not indicate in his initial claim notice that he had injured his left hip. Further, Dr. Hinton's emergency room report dated January 11, 1989, mentions only left knee pain, noting that appellant had a "history" of such pain. Finally, Dr. Kruse's initial office treatment notes and completed disability forms indicated nothing wrong with appellant's hip.

Not until the August 31, 1989 x-ray showing degenerative disc disease in appellant's left hip did Dr. Kruse begin attributing appellant's hip condition to the January 11, 1989 fall on the ice. In her November 6, 1989 report, she stated that appellant had experienced pain in his thigh and left hip following arthroscopic surgery on May 4, 1989, but she did not document any complaints of hip pain in her May 15, June 19 and July 28, 1989 follow-up treatment notes and released appellant to full work duties.⁹ Moreover, the fact that appellant believed that his hip pain resulted from the knee injury is not proof of a connection between an aggravation of the preexisting arthritis in appellant's hip and the initial twisting injury.¹⁰

Dr. Kruse subsequently opined that appellant's hip problem was present at the time of his knee injury but was not symptomatic until the twisting of his knee led to the arthritic symptoms he showed.¹¹ Responding to the Office's request to further explain her medical opinion, Dr. Kruse stated in an October 11, 1996 report that after his surgery, appellant returned to light-duty work and noticed persistent pain in his left thigh. Appellant had not been symptomatic prior to the January 1989 fall and his knee pain had "overshadowed" the hip pain, but he had complained of pain in his thigh after the knee surgery and that injury resulted in a permanent aggravation of his left hip arthritis. She added that this conclusion was supported by two facts, appellant was never able to return to the full sustained duty he was capable of performing prior to his injury and was unaware of any hip diagnosis prior to the 1989 fall.

The Board finds that Dr. Kruse's opinion on causal relationship is insufficiently rationalized to meet appellant's burden of proof. Dr. Kruse indicated that a lack of arthritic symptoms in appellant's hip prior to the 1989 fall and complaints of hip pain following knee surgery established a causal relationship between the work injury and the hip condition.

However, the Board has long held that such rationale lacks probative value, simply because the initial injury must be shown to have precipitated, aggravated, or accelerated the recurrence of disability, that is, the knee injury itself must have aggravated appellant's preexisting arthritis in his hip to such an extent that he became unable to work and needed a hip

⁹ See *Robert H. St. Onge*, 43 ECAB 1169, 1175 (1992) (documented evidence of bridging symptoms supports causal relationship of recurrence to original injury).

¹⁰ See *Velta H. Mikelsons*, 39 ECAB 1278, 1292 (1988) (finding that appellant's belief that her carpal tunnel syndrome was caused by her employment is insufficient to establish the requisite causal relationship).

¹¹ Dr. Kruse treated appellant for his hip condition throughout 1990 to 1996.

replacement.¹² Dr. Kruse failed to explain how the 1989 left knee injury, accepted for a torn medial meniscus, aggravated or accelerated the degenerative changes in appellant's left hip, thus necessitating replacement surgery in 1996.

Dr. Michael D. Plooster, a Board-certified orthopedic surgeon and the second opinion specialist, to whom the Office had referred appellant, stated in his September 9, 1992 report that, the fact that appellant's hip problem was not brought to Dr. Kruse's attention until nearly nine months after the knee injury cast doubt on an assertion that the fall itself caused any damage to the left hip and pain being reported that long after an injury was not strong evidence that the fall actually aggravated the preexisting hip condition. Thus, Dr. Plooster concluded that the January 11, 1989 injury neither produced nor aggravated appellant's arthritic hip condition.¹³

Therefore, the Board finds that the weight of the medical evidence is insufficient to meet appellant's burden of proof in establishing a causal connection between his hip replacement and the work-related injury in 1989.

The February 6, 1997 and July 30, 1996 decisions of the Office of Workers' Compensation Programs are affirmed.

Dated, Washington, D.C.
February 5, 1999

Michael E. Groom
Alternate Member

Bradley T. Knott
Alternate Member

A. Peter Kanjorski
Alternate Member

¹² See *John F. Curran*, 32 ECAB 647, 649 (1981) (finding that a physician's rationale based on the absence of intervening traumas is insufficient to establish causal relationship).

¹³ See *Wanda E. Maisonet*, 48 ECAB ____ (Docket No. 94-2466, issued November 29, 1996) (finding no conflict in the medical opinion evidence because appellant's doctor failed to explain the basis for his conclusion that appellant was still disabled by his back strain); see also *Gary R. Sieber*, 46 ECAB 215, 224 (1994) (finding that the weight of a medical opinion is determined by its reliability, its probative value, and its convincing quality).