

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of CHARLES C. WILSON and U.S. POSTAL SERVICE,
POST OFFICE, Phillipsburg, NJ

*Docket No. 99-1479; Oral Argument Held June 7, 2000;
Issued July 26, 2000*

Appearances: *Tammi L. Wilson*, for appellant; *Paul J. Klingenberg, Esq.*,
for the Director, Office of Workers' Compensation Programs.

DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,
A. PETER KANJORSKI

The issue is whether appellant established that the diagnosed condition of avascular necrosis and resultant surgery for core decompression of the left hip are causally related to his October 9, 1997 employment injury.

On October 10, 1997 appellant, then a 45-year-old letter carrier, filed a notice of traumatic injury and claim for compensation (Form CA-1), alleging that he sustained an injury to his left hip while in the performance of duty on October 9, 1997. He explained that while carrying mail he "just got a sharp pain in [his] left hip." Dr. Charles Grubb, a family practitioner, examined appellant on October 10, 1997 and diagnosed left hip tendinitis and bursitis. Additionally, Dr. Grubb advised appellant that he could return to work in a limited-duty capacity for a period of approximately five weeks. Appellant resumed his regular duties on November 15, 1997. However, he subsequently claimed a recurrence of disability on March 31, 1998 and at the time Dr. Grubb again advised appellant to perform only limited-duty work. The Office of Workers' Compensation Programs subsequently accepted appellant's claim for left hip tendinitis. The Office also authorized appellant to be examined by an orthopedic specialist, per Dr. Grubb's request.

In June 1998, Dr. Carl B. Weiss, a Board-certified orthopedic surgeon, diagnosed appellant as suffering from avascular necrosis of the left hip. On October 8, 1998 Dr. Vincent D. Pellegrini, Jr., a Board-certified orthopedic surgeon, operated on appellant's left hip.¹

The Office subsequently referred the claim to its medical adviser to determine whether the diagnosed condition of avascular necrosis was causally related to appellant's employment injury of October 9, 1997 and, if so, whether the October 8, 1998 surgical procedure was warranted. In a report dated January 21, 1999, the Office medical adviser explained that, based on the history of injury provided by appellant, he did not see any evidence that the injury appellant sustained on October 9, 1997 could have led to the development of avascular necrosis of the hip. He stated that appellant's left hip obviously had the beginnings of the process and that was what caused the sharp pain that occurred on October 9, 1997. Dr. Weiss further explained that appellant's reported history of alcohol consumption and prior steroid use were both possible precipitating factors for avascular necrosis. Lastly, the Office medical adviser noted that the surgical procedure performed on October 8, 1998 was unrelated to appellant's accepted condition of tendinitis.

On January 26, 1999 appellant filed a claim for recurrence of disability, seeking compensation for disability beginning on October 8, 1998.

In a decision dated February 9, 1999, the Office denied appellant's claim for the additional diagnosis of avascular necrosis and the surgery performed on October 8, 1998. The Office explained that the weight of the evidence, as represented by the opinion of its medical adviser, negated a causal relationship between the accepted injury of October 9, 1997 and appellant's current condition. The Office further noted that none of the medical reports of record indicated that there was a causal relationship between appellant's avascular necrosis and his employment.

The Board finds that appellant has failed to meet his burden of proof to establish that the diagnosed condition of avascular necrosis and the October 8, 1998 surgery were causally related to his October 9, 1997 employment injury.

A claimant seeking compensation under the Federal Employees' Compensation Act² has the burden of establishing the essential elements of his claim by the weight of the reliable, probative and substantial evidence, including that any specific condition or disability for work, for which he claims compensation is causally related to the employment injury.³ Causal relationship is a medical question that can generally be resolved only by rationalized medical opinion evidence.⁴ Where, as in the instant case, appellant claims that a condition not accepted or approved by the Office was due to his employment injury, he bears the burden of proof to

¹ Dr. Pellegrini performed a core decompression of the left hip with nonvascularized cadaveric allograft fibular bone graft.

² 5 U.S.C. §§ 8101-8193.

³ *Jacquelyn L. Oliver*, 48 ECAB 232, 235-36 (1996).

⁴ *Robert G. Morris*, 48 ECAB 238 (1996).

establish that the condition is causally related to the employment injury.⁵ The Board finds that appellant has not met that burden.

The record on appeal does not include a rationalized medical opinion attributing appellant's diagnosed avascular necrosis to his accepted employment injury of October 9, 1997.⁶ Neither Drs. Grubb nor Weiss specifically attributed appellant's avascular necrosis to the employment injury of October 9, 1997. The only medical evidence of record that attributes appellant's avascular necrosis to his accepted employment injury is an October 14, 1998 attending physician's report (Form CA-20) from Dr. Pellegrini. This report, however, does not provide any explanation as to why he believed the condition was related to appellant's October 9, 1997 employment injury. Dr. Pellegrini merely checked the "yes" box in response to the question "Do you believe the condition found was caused or aggravated by an employment activity?" Dr. Pellegrini's affirmative response, standing alone, is clearly insufficient to establish a causal relationship between appellant's current condition and his accepted employment injury of October 9, 1997.⁷ Furthermore, the history of injury noted by Dr. Pellegrini was not consistent with the history of injury reported by appellant on his October 10, 1997 Form CA-1. Whereas appellant initially reported that he "was carr[y]ing mail and [he] just got a sharp pain in [his] left hip," Dr. Pellegrini noted the following history of injury: "'Pulled Muscle' [October 1997]." In light of the absence of any rationale to support a causal relationship coupled with an inaccurate history of injury, Dr. Pellegrini's opinion is insufficient to meet appellant's burden of proof.⁸ Accordingly, the Office properly denied appellant's claim for compensation.

⁵ *Jacquelyn L. Oliver, supra* note 3.

⁶ At the June 7, 2000 hearing, appellant offered additional medical evidence for the Board's consideration. This evidence was not submitted to the Office prior to the issuance of its February 9, 1999 decision denying compensation. Inasmuch as the Board's review is limited to the evidence of record that was before the Office at the time of its final decision, the Board advised appellant that it could not consider the newly submitted evidence. 20 C.F.R. § 501.2(c).

⁷ *Lee R. Haywood*, 48 ECAB 145, 147 (1996) (the Board held that where a physician's opinion on causal relationship consists only of checking "yes" to a form question, such an opinion has little probative value and is insufficient to establish causal relationship.).

⁸ *Id.*

The February 9, 1999 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, D.C.
July 26, 2000

Michael J. Walsh
Chairman

David S. Gerson
Member

A. Peter Kanjorski
Alternate Member