

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of CATHY A. STOUGHTENGER and U.S. POSTAL SERVICE,
POST OFFICE, Oswego, NY

*Docket No. 01-2120; Submitted on the Record;
Issued May 3, 2002*

DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS,
MICHAEL E. GROOM

The issues are: (1) whether appellant met her burden of proof to establish that her left hip condition was causally related to the October 21, 1999 employment injury; and (2) whether appellant met her burden of proof to establish that she sustained recurrences of disability on December 21, 2000 and January 25, 2001, causally related to the October 21, 1999 employment injury.

On October 21, 1999 appellant, then a 38-year-old distribution/window clerk, sustained an employment-related thoracic sprain/strain. She returned to limited duty on November 16, 1999. The Office of Workers' Compensation Programs later accepted that she also sustained an employment-related sacroiliac dysfunction and that she sustained brief recurrences of disability on November 13, 1999 and January 3, 2000.

On February 5, 2001 appellant filed a claim, alleging that she sustained a recurrence of disability on December 21, 2000 due to persistent left hip pain. She returned to limited duty on December 27, 2000 and submitted medical evidence from Dr. Jeffrey Kahn, her treating Board-certified physiatrist. On February 7, 2001 she filed another claim, alleging that she sustained a recurrence of disability on January 25, 2001 due to a stress fracture of her left hip. She did not return to work and submitted CA-7 forms, claims for compensation and additional medical evidence.

In letters dated March 15, 2001, the Office informed appellant of the type evidence needed to support her recurrence claims and that her hip condition was causally related to the October 21, 1999 employment injury. Appellant responded by letter dated March 20, 2001 and submitted medical reports from Drs. Timothy A. Damron and John J. Cambareri, both of whom are Board-certified orthopedic surgeons.

In a decision dated May 3, 2001, the Office denied that appellant sustained recurrences of disability on December 21, 2000 and January 25, 2001.¹ The Office further denied that her left hip condition was causally related to the October 21, 1999 employment injury. On May 18, 2001 appellant resigned her position with the employing establishment. The employing establishment indicated that she resigned because she was getting married and moving to Canada.

On June 5, 2001 appellant requested reconsideration and submitted additional medical evidence. In a June 25, 2001 decision, the Office denied modification of the prior decision on the grounds that the medical evidence failed to establish that she sustained a recurrence of disability or that her hip condition was causally related to the employment injury. The instant appeal follows.

The Board finds that appellant failed to establish that her left hip condition was causally related to the October 21, 1999 employment injury.

Causal relationship is a medical issue,² and the medical evidence required to establish a causal relationship is rationalized medical evidence. Rationalized medical evidence is medical evidence which includes a physician's rationalized medical opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. 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 factors identified by the claimant.³ Moreover, the belief that the disease or condition was caused or aggravated by employment factors or incidents is sufficient to establish causal relationship.⁴

The medical evidence relevant to appellant's hip condition includes treatment notes dated August 3, September 7 and November 9, 2000, in which Dr. Jeffrey Kahn, appellant's treating Board-certified physiatrist, noted findings on examination of tenderness over the greater trochanteric region on the left. In an office note dated December 21, 2000, Dr. Karl Hafner, a Board-certified family practitioner, noted that appellant's complaints of persistent left hip pain with findings of tenderness on examination. He concluded, "I am not convinced that what we are finding is totally work related." Dr. Damron, a Board-certified orthopedic surgeon, provided a report dated February 16, 2001, in which he stated that appellant sustained a "work-related injury during October of 1999." He noted findings on examination of mild paraspinous tenderness in the lower lumbar spine. Dr. Damron advised that hip range of motion produced a large degree of pain and noted x-ray findings of arthritis of the left hip and magnetic resonance imaging (MRI) findings indicative, "according to the radiologists," of a condition that preceded a stress fracture. He advised that there were three sources of her pain: trochanteric bursitis,

¹ The record indicates that appellant received wage-loss compensation for the period December 23 to 26, 2000.

² *Mary J. Briggs*, 37 ECAB 578 (1986).

³ *Gary L. Fowler*, 45 ECAB 365 (1994); *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁴ *Minnie L. Bryson*, 44 ECAB 713 (1993); *Froilan Negron Marrero*, 33 ECAB 796 (1982).

arthritis of the left hip and a stress reaction in her left femoral neck, which likely represented overuse. In an unsigned report dated March 12, 2001, Dr. John J. Cambareri, a Board-certified orthopedic surgeon, diagnosed stress fracture of the left hip, improving. In a May 10, 2001 report, Dr. Kahn indicated that appellant had been discharged from his care in November 2000. A May 21, 2001 MRI of the left hip was read as demonstrating interval improvement with no evidence of fracture.

The Board finds that appellant failed to provide sufficient medical evidence to establish that her hip condition was causally related to the October 21, 1999 employment injury. Dr. Kahn, who began treating appellant following her October 21, 1999 employment injury, did not mention that she had a complaint regarding her left hip until August 3, 2000, 10 months after the employment injury. Furthermore, Dr. Cambareri merely provided a conclusory statement that appellant's hip condition was due to the October 21, 1999 employment injury. As part of the burden of proof, the claimant must present rationalized medical evidence, based upon a specific and accurate history.⁵ As Dr. Cambareri's opinion does not indicate that it was based on a complete and accurate factual history and did not contain adequate medical rationale supporting his conclusion that appellant's hip condition was employment related, the Board finds that his opinion is of decreased probative value.⁶ Dr. Damron did not provide an opinion regarding the cause of appellant's left hip condition. Appellant, therefore, failed to establish that her left hip condition was causally related to the October 21, 1999 employment injury.

The Board further finds that appellant failed to establish that she sustained recurrences of disability on December 21, 2000 and January 25, 2001 due to the October 21, 1999 injury.

When an employee, who is disabled from the job he or she held when injured on account of employment-related residuals, returns to a light-duty position or the medical evidence of record establishes that he or she can perform the light-duty position, the employee has the burden to establish by the weight of the reliable, probative and substantial evidence a recurrence of total disability and show that he or she cannot perform such light duty. As part of this burden, the employee must show either a change in the nature and extent of the injury-related condition or a change in the nature and extent of the light-duty requirements.⁷

The medical evidence in this case does not support that appellant sustained a recurrence of disability causally related to the accepted injury, a thoracic sprain/strain. As stated above, in a December 21, 2000 office note, Dr. Hafner noted that appellant's complaints of hip pain but advised that he was not "convinced" that the condition was employment related. Furthermore, Dr. Hafner did not indicate that appellant was disabled. While the record contains disability slips dated December 22, 2000 and January 26, 2001, which state that appellant is totally disabled, the signature on the former is signed by "Nicole" and the signature on the latter is illegible. These, therefore, do not constitute the opinion of a physician under the Federal Employees'

⁵ See *Richard A. Weiss*, 47 ECAB 182 (1995).

⁶ See *Elizabeth W. Esnil*, 46 ECAB 606 (1995).

⁷ *Mary A. Howard*, 45 ECAB 646 (1994); *Cynthia M. Judd*, 42 ECAB 246 (1990); *Terry R. Hedman*, 38 ECAB 222 (1986).

Compensation Act.⁸ Dr. Damron did not provide an opinion regarding appellant's ability to work. While, in his report dated March 12, 2001, Dr. Cambareri indicated that appellant was totally disabled, he related the cause to her hip stress fracture and did not provide a rationalized medical explanation that she was totally disabled due to the accepted thoracic strain/sprain or sacroiliac dysfunction. Thus, in this case, appellant did not show either a change in the nature and extent of the injury-related condition or a change in the nature and extent of her light-duty requirements.⁹ She, therefore, failed to discharge her burden of proof and the Board finds that she failed to establish a recurrence of disability.

The June 25 and May 3, 2001 decisions of the Office of Workers' Compensation Programs are hereby affirmed.

Dated, Washington, DC
May 3, 2002

Michael J. Walsh
Chairman

Willie T.C. Thomas
Alternate Member

Michael E. Groom
Alternate Member

⁸ A physician includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors and osteopathic practitioners within the scope of their practice as defined by State law. 5 U.S.C. § 8101(2). The Board further notes that these slips do not provide a cause of appellant's disability.

⁹ *Supra* note 7.