

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of BERNARD PORTER and DEPARTMENT OF THE ARMY,
CORPUS CHRISTI ARMY DEPOT, Corpus Christi, TX

*Docket No. 03-1441; Submitted on the Record;
Issued August 6, 2003*

DECISION and ORDER

Before COLLEEN DUFFY KIKO, DAVID S. GERSON,
A. PETER KANJORSKI

The issue is whether appellant established that he aggravated his right hip condition in the performance of duty on June 25, 2001.

On June 25, 2001 appellant, then a 39-year-old integrated electronics systems mechanic, filed a notice of traumatic injury alleging that, on June 25, 2001, he was moving a maintenance stand when he felt a slip or pop in his right hip causing a sharp pain. He claimed that the incident aggravated preexisting arthritis in his right hip. Appellant indicated that his right hip problem began in 1989 when he was in a work-related motor vehicle accident and he filed a claim but it was denied. He also filed an occupational disease claim in December 2000 when he claimed that he aggravated his right hip condition while climbing up and down an aircraft, but that claim was also denied.

In a report dated February 15, 2001, Dr. Michael W. Britt, an attending Board-certified orthopedic surgeon, indicated that appellant was in a motor vehicle accident in 1989 and injured his right hip but that he recovered and did reasonably well. He noted that he began treating appellant for right hip pain in 1992 when he had early degenerative changes and increasing pain and discomfort. Dr. Britt stated that currently appellant had significant limitations with his right hip, including inability to flex more than 60 degrees, extreme pain with walking distances and problems with stiffness, stopping and daily activities.

In a report dated May 17, 2001, Dr. Britt opined that the degenerative changes found in appellant's hip in 1992 were most likely due to the motor vehicle accident in 1989. He noted that appellant also slipped in the shower in 1992 and injured his right hip and opined that the incident was also most likely the result of the motor vehicle accident in 1989.

By letter dated July 26, 2001, the Office of Workers' Compensation Programs informed appellant that additional factual and medical evidence was necessary to establish his claim. The Office requested that appellant submit a physician's opinion supported by a medical explanation as to how the work incident caused or aggravated his condition.

In a report dated August 16, 2001, Dr. Britt stated:

“I would support that [appellant] has had an on-the-job injury dating back to his original claim in 1989. In addition on June 25 this year, he was at work. [Appellant] was rolling a maintenance stand and while pushing the stand, his hip slipped and gave out from under him. He had pain and discomfort. [Appellant] had a popping sensation in his hip.

“Since that time, [appellant] has had three very painful locking episodes which have significantly interfered with his ability to do work. He remains on limited duty at this time and should avoid heavy lifting or pushing objects.... Given [appellant’s] most recent on-the-job injury, I think his hip problem has now been aggravated.”

Dr. Britt did not provide a diagnosis for appellant’s condition, in his report.

By decision dated October 19, 2001, the Office denied appellant’s claim on the grounds that the medical evidence was insufficient to establish a causal relationship between the alleged work injury and appellant’s medical condition. Appellant disagreed with the Office’s decision and requested an oral hearing.¹

By decision dated February 14, 2003, the Office hearing representative affirmed the previous decision finding that the medical evidence was insufficient to establish that appellant’s medical condition was causally related to his federal employment.

An employee seeking benefits under the Federal Employees’ Compensation Act² has the burden of establishing 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 the Act, that the claim was timely filed within the applicable time limitation period of the Act, that an injury was sustained in the performance of duty as alleged and that any disability and/or specific condition for which compensation is claimed are causally related to the employment injury.³ These are the essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁴ The evidence required to establish causal relationship is rationalized medical opinion evidence, based upon a complete factual and medical background, showing a causal relationship between the claimed condition and identified factors. The belief of a claimant that a condition was caused or aggravated by the employment is not sufficient to establish causal relation.⁵

¹ The oral hearing was held on November 20, 2002.

² 5 U.S.C. §§ 8101-8193.

³ *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

⁴ *Delores C. Ellyett*, 41 ECAB 992, 994 (1990); *Ruthie M. Evans*, 41 ECAB 416, 423-25 (1990).

⁵ *Jerry A. Miller*, 46 ECAB 243 (1994).

In this case, appellant did not submit sufficient medical evidence to establish that he aggravated his right hip condition as a result of his federal employment duties on June 25, 2001. In his August 16, 2001 report, Dr. Britt, an attending Board-certified orthopedic surgeon, did not provide a diagnosis for appellant's condition. He also did not provide a complete factual and medical history of appellant's condition in his report. Dr. Britt mentioned that appellant's "original claim" dated back to 1989 but did not describe this particular incident or state how it was related to appellant's current condition. He also did not mention appellant's medical history between his "original claim" in 1989 and 2001. Moreover, Dr. Britt did not seem to provide an actual medical opinion on the cause of appellant's condition. He stated: "[g]iven [appellant's] most recent on-the-job injury, I think his hip problem has now been aggravated." Dr. Britt seems to be restating appellant's own belief that his right hip problem was aggravated by an on-the-job injury. He does not clearly provide his own independent and affirmative opinion on the cause of appellant's condition. Furthermore, Dr. Britt did not support his statement with medical rationale or adequately describe the mechanism of how appellant's right hip condition allegedly became aggravated. In summary, his report is incomplete since it does not contain a medical diagnosis, does not contain a complete factual and medical history and does not provide a definitive medical opinion, supported by medical rationale, on the cause of appellant's condition. Since Dr. Britt's report is incomplete, it is insufficient to establish a causal relationship between appellant's medical condition and his federal employment duties.

The remaining reports from Dr. Britt dated February 15 and May 17, 2001 are also insufficient to establish a causal relationship between appellant's medical condition and his federal employment duties. He discussed appellant's medical history in these reports and noted that he began treating appellant for right hip pain in 1992 when he began showing degenerative changes and had increasing pain. These reports, however, are dated before the alleged aggravation of appellant's right hip condition on June 25, 2001 and are, therefore, of limited probative value. These reports do establish a medical history, although somewhat incomplete, but do not establish that appellant's preexisting right hip condition became aggravated as a result of his federal employment duties on June 25, 2001.

The Office informed appellant, by letter dated July 26, 2001, that the evidence was incomplete and that he should submit a physician's rationalized medical opinion on the cause of his condition along with objective medical findings. Since appellant did not submit the necessary medical evidence in this case, the Board finds that the Office correctly denied his claim for compensation.

The February 14, 2003 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC
August 6, 2003

Colleen Duffy Kiko
Member

David S. Gerson
Alternate Member

A. Peter Kanjorski
Alternate Member