



The record contains a series of handwritten treatment notes dated from September 14, 2002, evidencing emergency and follow-up treatment for appellant's back and left groin pain after the alleged employment injury. The treatment notes all contain some history of the alleged employment injury related by appellant as the cause of his pain. A magnetic resonance imaging scan report of the lumbar spine taken on October 10, 2002 was submitted, which showed minimal disc degenerative change with stenosis or herniated disc. In a radiology report of record dated September 19, 2002, results of lumbar spine x-rays taken that day showed syndesmophyte formation on the right at L2-3, raising the possibility of associated arthropathy and minor degenerative disc changes at T12-L1 with minimal spurring superiorly at L2 and L4.

The record also contains a medical report dated October 25, 2002, from Dr. James Hamilton, Jr., a Board-certified surgeon, which indicated that appellant was referred to him with complaints of a possible left inguinal hernia. He noted appellant's complaint of waking up a month and a half prior with significant burning on the left side and indicated that the left-sided pain was in a dermatomal band-like distribution, which involved the medial aspect of the thigh and the left groin area, which intermittently worsened. The physician also noted that appellant noticed some bulging in the musculature of his lower abdomen. Dr. Hamilton concluded that appellant had a probable neuropathy involving a nerve root in the L1 dermatome on the left side, which may have been the result of a viral infection similar to a Bell's palsy of the face. He stated: "This leads to the symptoms, which are consistent with what the patient suffered. In addition, the muscle weakness of the lower rectus abdominis muscle and muscular asymmetry are another hint that there is both underlying motor and sensory dermatomal weakness."

In a letter dated April 15, 2003, the Office advised appellant that the evidence received in support of the claim was insufficient to support the claim because he failed to submit a physician's opinion as to how his injury resulted in the condition diagnosed. The Office afforded appellant 30 days with which to submit the requested information.

The Office received a narrative statement from appellant, witness statements and a report from Dr. Carlos Chavez, a Board-certified surgeon dated April 28, 2003, which outlined appellant's medical treatment following the claimed work incident and his episodes of pain and numbness in the left groin. In the report Dr. Chavez stated: "I was suspecting a left inguinal hernia. He did see the surgeon and it was determined it was not a hernia."

By decision dated May 16, 2003, the Office denied appellant's claim. The Office accepted that the work-related event occurred; however, it found that the medical evidence was insufficient to demonstrate that his medical condition was causally related to factors of his employment.

### **LEGAL PRECEDENT**

An employee seeking benefits under the Federal Employees' Compensation Act<sup>1</sup> 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

---

<sup>1</sup> 5 U.S.C. §§ 8101-8193.

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.<sup>2</sup> These are the essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.<sup>3</sup>

To determine whether an employee has sustained a traumatic injury in the performance of duty, it must first be determined whether a “fact of injury” has been established. First, the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time, place and in the manner alleged.<sup>4</sup> Second, the employee must submit sufficient evidence, generally only in the form of medical evidence, to establish that the employment incident caused a personal injury.<sup>5</sup> An employee may establish that an injury occurred in the performance of duty as alleged but fail to establish that his or her disability and/or a specific condition for which compensation is claimed are causally related to the injury.<sup>6</sup>

### ANALYSIS

The Board finds that the incident occurred at the time, place and in the manner alleged. Appellant provided detailed factual information regarding the alleged incident, his supervisor certified that the information furnished by appellant in his claim was correct and appellant submitted witness statements from members of his emergency medical team who corroborated his claim. Based on this evidence, the Office properly determined that the incident occurred as alleged.

However, the medical evidence is insufficient to establish that appellant’s employment caused an injury. Appellant submitted a series of medical notes from Dr. Chavez, his treating physician and other medical personnel with illegible signatures, which discuss the September 14, 2002 employment incident and appellant’s complaints of back and left groin pain but do not contain an opinion on causal relationship. The Board has held that medical evidence must be in the form of a reasoned opinion by a qualified physician based on a complete and accurate factual and medical history of the employee whose claim is being considered.<sup>7</sup>

The record reflects that sometime around the employment incident in September 2002, appellant complained of symptoms which led his physician to believe he might have a left inguinal hernia. In addition to reporting the circumstances of the September 14, 2002 employment injury to Dr. Chavez, appellant also reported significant burning in the left groin

---

<sup>2</sup> *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

<sup>3</sup> *Delores C. Ellyett*, 41 ECAB 992, 994 (1990); *Ruthie M. Evans*, 41 ECAB 416, 423-25 (1990).

<sup>4</sup> *John J. Carlone*, 41 ECAB 354 (1989).

<sup>5</sup> *Id.*

<sup>6</sup> As used in the Act, the term “disability” means incapacity because of an injury in employment to earn wages the employee was receiving at the time of the injury, *i.e.*, a physical impairment resulting in loss of wage-earning capacity. *Frazier V. Nichol*, 37 ECAB 528 (1986).

<sup>7</sup> *Donald J. Miletta*, 34 ECAB 1822 (1983).

area and bulging in the musculature of his lower abdomen. Appellant was referred to Dr. Hamilton, a Board-certified surgeon for evaluation, who in a report dated October 25, 2002, determined that appellant did not have a hernia but probable neuropathy involving a nerve root in the L1 dermatome on the left side, which may have resulted from a viral infection. As the record establishes, Dr. Hamilton attributed appellant's left groin symptoms to a possible viral infection and did not give any indication that the September 14, 2002 employment incident, which involved appellant carrying a 300-pound patient up basement stairs caused or aggravated appellant's diagnosed left groin condition.

An award of compensation may not be based upon surmise, conjecture or speculation or upon appellant's belief that there is a causal relationship between his condition and his employment.<sup>8</sup> To establish causal relationship, appellant must submit a physician's report, in which the physician reviews the factors of federal employment identified by appellant as causing his condition and, taking these factors into consideration as well as findings upon examination of appellant and appellant's medical history, state whether these employment factors caused or aggravated appellant's diagnosed condition.<sup>9</sup>

Consequently, appellant has not established his claim as he has submitted no medical evidence supporting that the employment incident on September 14, 2002 caused an injury in the performance of duty.<sup>10</sup>

### **CONCLUSION**

The Board finds that the medical opinion evidence is insufficient to establish that appellant's left groin condition was causally related to his federal employment.

---

<sup>8</sup> *William S. Wright*, 45 ECAB 498 (1993).

<sup>9</sup> *Id.*

<sup>10</sup> Appellant submitted evidence on appeal; the Board cannot review evidence that was not before the Office at the time of the final decision. 20 C.F.R. § 501.2(c).

**ORDER**

**IT IS HEREBY ORDERED THAT** the May 16, 2003 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: March 18, 2004  
Washington, DC

Colleen Duffy Kiko  
Member

David S. Gerson  
Alternate Member

Willie T.C. Thomas  
Alternate Member