

FACTUAL HISTORY

Appellant, a 44-year-old correctional specialist, sustained an injury in the performance of duty on June 22, 2004 when he slipped on a wet floor while carrying an inmate out of a smoke-filled room. Appellant claimed that he twisted his right leg and knee. The Office initially accepted the claim for right knee sprain and right groin strain (11-2023109). On August 2, 2004 appellant sustained a second employment-related injury. He was getting up from a swivel chair when he reportedly twisted or pulled his right groin and hip area. Appellant also claimed to have injured his right knee. The Office accepted the August 2, 2004 traumatic injury for bilateral hip strain and right knee sprain (11-2024047). Appellant had previously been diagnosed with bilateral hip avascular necrosis, and the Office found that there was insufficient medical evidence relating this condition to the August 2, 2004 employment incident.

On March 18, 2005 appellant's counsel requested that the Office expand the claim (11-2023109) to include a left knee condition and bilateral hip avascular necrosis. In a March 3, 2005 report, Dr. William W. Bohn, a Board-certified orthopedic surgeon, noted that appellant had helped put out a fire and, as he was removing an inmate, he slipped on a wet floor and immediately felt discomfort in his groin. Dr. Bohn also noted that appellant developed right knee pain over night. He further stated that appellant currently had avascular necrosis in both hips and bilateral knee symptomology.² Dr. Bohn explained that the process of slipping and catching oneself without falling could generate well over 1,000 pounds of force on the hip and knee joints. He added that this could produce an immediate strain on the joints resulting in joint damage as well as damage to circulation, especially in the hip joint. Dr. Bohn stated that appellant sustained a significant groin injury and the biomechanics of his injury was consistent with causing an acute injury to the hips and knees bilaterally.

The Office's medical adviser reviewed the record and in a report dated July 6, 2005, he recommended that the claim be expanded to include permanent aggravation of right hip avascular necrosis. He also advised against accepting the claim for either left hip avascular necrosis or a left knee condition.

On July 12, 2005 the Office expanded appellant's claim to include permanent aggravation of right hip necrosis. In a separate decision, also dated July 12, 2005, the Office found that appellant failed to demonstrate that his left knee and left hip conditions were employment related.

LEGAL PRECEDENT

A claimant seeking benefits under the Federal Employees' Compensation Act³ has the burden of establishing the essential elements of his claim by the weight of the reliable, probative and substantial evidence, including that an injury was sustained in the performance of duty as

² Appellant initially reported left knee pain in late October 2004 and in a December 15, 2004 report Dr. Bohn diagnosed left knee strain with possibility of internal derangement and medial patellofemoral retinacular tear with healing.

³ 5 U.S.C. § 8101 *et seq.*

alleged and that any specific condition or disability claimed is causally related to the employment injury.⁴ Causal relationship is a medical question that can generally be resolved only by rationalized medical opinion evidence.⁵ Where 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 establish that the condition is causally related to the employment injury.⁶

ANALYSIS

The Board finds that the case is not in posture for decision. The Office declined to accept appellant's left knee and left hip conditions based on the advice of its medical adviser. The only rationale offered by the medical adviser for not accepting the left knee and left hip conditions was that appellant had not complained about any left-sided symptoms on or about the time of his June 22 and August 2, 2004 employment injuries.⁷ The Office medical adviser also indicated that appellant's bilateral hip avascular necrosis preexisted the June 22, 2004 employment injury. However, he did not identify any specific evidence of a preexisting condition. He merely surmised that had a magnetic resonance imaging scan been performed when appellant injured himself, there was a reasonable medical probability that the bilateral avascular necrosis would have appeared around the time of the June 22, 2004 injury. Dr. John M. Bramble, a Board-certified radiologist, interpreted a June 24, 2004 x-ray of the right hip as revealing no fracture or dislocation. Dr. Bramble did not mention the presence of any other abnormalities. The Office medical adviser did not address Dr. Bramble's x-ray findings.

Proceedings under the Act are not adversarial in nature and the Office is not a disinterested arbiter. While the claimant has the burden to establish entitlement to compensation, the Office shares responsibility in the development of the evidence to see that justice is done.⁸ Although Dr. Bohn's opinion is insufficient to discharge appellant's burden of proving that his claimed left knee and left hip conditions are causally related to his employment injury, this evidence is sufficient to require further development of the case record by the Office.⁹

⁴ 20 C.F.R. § 10.115(e), (f) (1999); see *Jacquelyn L. Oliver*, 48 ECAB 232, 235-36 (1996).

⁵ See *Robert G. Morris*, 48 ECAB 238 (1996). A physician's opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors must be based on a complete factual and medical background of the claimant. *Victor J. Woodhams*, 41 ECAB 345, 352 (1989). Additionally, in order to be considered rationalized, the opinion must be expressed in terms of a reasonable degree of medical certainty, and must be supported by medical rationale, explaining the nature of the relationship between the diagnosed condition and appellant's specific employment factors. *Id.* The fact that the etiology of a disease or condition is unknown or obscure does not relieve an employee of the burden of establishing a causal relationship or otherwise shift the burden of proof to the Office to disprove an employment relationship. *Judith J. Montage*, 48 ECAB 292, 294-95 (1997).

⁶ *Jacquelyn L. Oliver*, *supra* note 4.

⁷ At least with respect to appellant's left hip condition, the noted absence of left-sided symptoms is inconsistent with the Office's prior acceptance of the claim for bilateral hip strains arising on August 2, 2004.

⁸ *William J. Cantrell*, 34 ECAB 1223 (1983).

⁹ See *John J. Carlone*, 41 ECAB 354 (1989); *Horace Langhorne*, 29 ECAB 820 (1978).

On remand, the Office should refer appellant, the case record, and a statement of accepted facts to an appropriate specialists for an evaluation and a rationalized medical opinion regarding whether appellant's claimed left knee and left hip conditions are causally related to either the June 22 or August 2, 2004 employment injuries. After such further development of the case record as the Office deems necessary, a *de novo* decision shall be issued.

CONCLUSION

The Board finds that the case is not in posture for decision.

ORDER

IT IS HEREBY ORDERED THAT the July 12, 2005 decision of the Office of Workers' Compensation Programs is set aside and the case is remanded for further proceedings consistent with this decision.

Issued: January 6, 2006
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

David S. Gerson, Judge
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board