

he was laid off on December 1, 2001 due to lack of work.¹ The Office accepted the claim for aggravation of avascular necrosis and paid appropriate benefits. Appellant received wage-loss compensation beginning December 4, 2001.

In a May 24, 2002 Form CA-20, attending physician's report, Dr. Allison P. Whittle, a Board-certified orthopedic surgeon, noted that appellant hurt his hip while in the Army and in a motor vehicle accident of 1995. He provided a history of appellant having hip pain in the fall of 2001, while bailing cotton and unloading trucks. Dr. Whittle indicated that a December 13, 2001 magnetic resonance imaging (MRI) scan showed avascular necrosis of the bilateral femoral heads and diagnosed avascular necrosis of both hips. Dr. Whittle opined, by placing a checkmark in the appropriate box, that appellant's condition was aggravated by the work injury of 2001 by engaging in labor on his feet.

In an August 13, 2002 Form CA-20, attending physician's report, Dr. David Richardson, a Board-certified internist, noted that appellant had no history or evidence of concurrent or preexisting injury and that appellant had experienced bilateral hip pain for 10 months. He diagnosed avascular necrosis of both hips and opined, with a checkmark in the appropriate box, that appellant's work activity of manual/physical labor may aggravate his diagnosed condition. Dr. Richardson also included work restrictions of no labor when standing.

The Office referred appellant, together with the case record, a statement of accepted facts and a series of questions, to Dr. Carl Huff, a Board-certified orthopedic surgeon, for a second opinion evaluation. In a February 25, 2003 report, Dr. Huff reviewed the medical history and noted that appellant reported trouble with his hips since 1992. He performed a physical examination and took x-rays of appellant's right hip. Dr. Huff diagnosed bilateral aseptic necrosis of the hips and opined that, although appellant's condition was predictably progressive and a total hip replacement on the right side was indicated, the employment injury did not cause or aggravate the condition of aseptic necrosis. He explained that it was a preexisting condition and was not accelerated nor precipitated by the accepted injury as there was no material damage in a structural sense resulting from the work injury of October 14, 2001. Although appellant had aggravated his pain when lifting the cotton sacks, the aggravation was temporary and not unique to the work situation as it did not result in any material change or any permanent modification or acceleration of the condition of avascular necrosis. Dr. Huff noted that while appellant would have experienced increased pain, he could also have experienced increased pain at home while climbing stairs or lifting a sack of groceries. He stated that progression of the aseptic necrosis in this case was slower than the average case and explained that this further supported the conclusion that the work incident of October 14, 2001 did not cause any structural damage or accelerate the condition of aseptic necrosis. Appellant's present condition had nothing to do with the October 14, 2001 work injury. He explained that avascular necrosis of the hip was an intrinsic condition where the blood supply to the femoral head was diminished causing cellular death of the osteocytes, which was determined based on physiological considerations and not due to activities such as lifting sacks of cotton. Dr. Huff opined that this case represented an etiopathic presentation of avascular necrosis and the fact that the condition was bilateral

¹ Appellant filed a claim for a traumatic injury, Form CA-1; however, as his condition was attributed to incidents which occurred over more than one work shift, his claim was adjudicated as one for occupational disease.

supported that the cause was related to internal physiological factors rather than any external event. He stated that the avascular necrosis of both hips would get progressively worse and that, while appellant would need total hip replacement to improve his ambulation, he was not totally disabled. Appellant reached maximum medical improvement from the temporary aggravation within six weeks of the October 14, 2001 injury. Dr. Huff emphasized that appellant simply experienced pain while working as a result of the preexisting avascular necrosis of the hips and that there was no causal relationship or any aggravation or acceleration of the basic pathological condition of bone cell death and mechanical loss of structural integrity of the femoral head. He noted that appellant would not be able to function in a work setting that would require standing, walking, lifting or climbing in his present condition, but with the total hip replacement on the right side, he would be able to walk and lift with restrictions. Dr. Huff also completed a work capacity evaluation with appellant's present restrictions.

On December 18, 2003 the Office issued a proposed notice of termination of compensation on the grounds that appellant's employment-related condition had resolved based on Dr. Huff's February 25, 2003 report. Appellant was provided 30 days within which to submit additional evidence or argument. However, the Office did not receive any additional evidence in response to its proposed action.

By decision dated February 6, 2004, the Office terminated appellant's compensation, effective that date, finding that Dr. Huff's opinion constituted the weight of the medical evidence in establishing that he had recovered from the accepted work-related condition.

In a letter dated August 10, 2004, appellant requested reconsideration. He disagreed with the Office's decision and contended that there was no evidence of avascular necrosis of his hips prior to the October 14, 2001 work incident. He submitted copies of medical reports and objective testing from July 1992 to November 12, 2003. In a July 28, 2004 Form CA-20, attending physicians report, Dr. Robert Brashear, a Board-certified family practitioner, reported that appellant had a motor vehicle accident in 1995, but that his hip problems resolved. He listed a history of injury as the development of bilateral hip pain in 2001 while bailing cotton and unloading trucks. Dr. Brashear diagnosed the condition of bilateral aseptic necrosis of femoral heads and opined, with a checkmark in the appropriate box, that such condition was aggravated by weight load bearing activity of lifting and being on his feet. He further opined that appellant was totally disabled from December 2001 to the present and needed a hip replacement.

By decision dated November 3, 2004, the Office denied modification of the February 6, 2004 termination of appellant's benefits.

In a letter dated September 20, 2005, appellant requested reconsideration arguing that Dr. Huff's second opinion evaluation was biased and unfair. Appellant submitted a duplicate copy of Dr. Whittle's May 24, 2002 attending physician's report, along with the results of x-rays of the pelvis and both hips performed on August 2, 2005. In a September 21, 2005 report, Dr. Bennett D. Cotten, Jr., a Board-certified orthopedic surgeon, indicated that appellant had a history of injury to both hips in 2001 while loading cotton and developed bilateral avascular necrosis thereafter. Prior to this injury, appellant had no history of any hip problems. He provided a diagnosis of avascular necrosis involving both hips and noted that appellant would undergo a right total hip arthroplasty because of his pain.

By decision dated December 30, 2005, the Office denied modification of its November 3, 2004 decision.

LEGAL PRECEDENT -- ISSUE 1

Under the Federal Employees' Compensation Act,² when employment factors cause an aggravation of an underlying physical condition, the employee is entitled to compensation for the periods of disability related to the aggravation. However, when the aggravation is temporary and leaves no permanent residuals, compensation is not payable for periods after the aggravation has ceased.³ Once the Office accepts a claim and pays compensation, it has the burden of justifying modification or termination of an employee's benefits.⁴ After it has determined that an employee has disability causally related to his or her federal employment, the Office may not terminate compensation without establishing that the disability has ceased or that it is no longer related to the employment.⁵ The Office's burden of proof in terminating compensation includes the necessity of furnishing rationalized medical opinion evidence based on a proper factual and medical background.⁶

ANALYSIS -- ISSUE 1

The Office accepted that appellant sustained an aggravation of his avascular necrosis condition as a result of the October 14, 2001 work incident. Therefore, it bears the burden of proof to justify the termination of compensation benefits for that condition. In this case, the Office terminated appellant's compensation and medical benefits based on the opinion of Dr. Huff, a referral physician, who was provided with appellant's complete medical history and record including recent diagnostic objective studies appellant underwent in 2001, which demonstrated that appellant had avascular necrosis of both hips.

By report dated February 25, 2003, Dr. Huff reviewed the history of injury and the medical records. He noted that appellant first reported trouble with his hips in 1992 and the 2001 MRI scan showed avascular necrosis of both hips. He performed a physical examination of appellant along with x-rays of appellant's right hip and diagnosed bilateral aseptic necrosis of the hips. Dr. Huff opined that, while appellant's condition was predictably progressive and a total hip replacement on the right side was indicated, the employment injury did not accelerate or aggravate appellant's preexisting aseptic necrosis condition. Although appellant had experienced pain at the time of the lifting of cotton sacks, the aggravation of pain was temporary and not unique to the work situation as it did not result in any material change or any permanent modification or acceleration of the preexisting condition of avascular necrosis. He further noted that the progression of appellant's aseptic necrosis was slower than in the average case and

² 5 U.S.C. §§ 8101-8193.

³ *Talmadge Miller*, 47 ECAB 673 (1996); *James L. Hearn*, 29 ECAB 278, 287 (1978).

⁴ *Paul L. Stewart*, 54 ECAB 824 (2003).

⁵ *Elsie L. Price*, 54 ECAB 734 (2003).

⁶ *Gewin C. Hawkins*, 52 ECAB 242 (2001).

explained that this further supported the conclusion that the work incident of October 14, 2001 did not cause structural damage or accelerate the condition of aseptic necrosis. Appellant's present condition and need for hip replacement had nothing to do with the October 14, 2001 work injury. Dr. Huff further opined that the fact that appellant's condition was bilateral supported that the cause was related to internal physiological factors rather than any external event. He opined that appellant was not totally disabled. Dr. Huff further opined that appellant's temporary aggravation of pain resolved within six weeks of the October 14, 2001 injury and emphasized that the pain appellant had while working was a result of the preexisting avascular necrosis of the hips.

The Board has carefully reviewed Dr. Huff's opinion that appellant's temporary aggravation of his preexisting avascular necrosis condition has ceased with no residuals causally related to the October 14, 2001 injury. It has the reliability, probative value and convincing quality with respect to its stated conclusions regarding the relevant issue in the present case. His opinion is based on a proper factual and medical history in that he reviewed the statement of accepted facts prepared by the Office. Dr. Huff provided a thorough factual and medical history and accurately summarized the relevant medical evidence. Moreover, he provided a proper analysis of the factual and medical history and his findings on examination and reached conclusions regarding appellant's preexisting hip condition which comported with this analysis.⁷ Dr. Huff provided medical rationale in support of his opinion by explaining that appellant's current condition and limitations were related to physiological considerations relating to the condition itself and that any temporary aggravation of pain appellant had would have resolved within six weeks of his activities of lifting sacks of cotton. Accordingly, the Board finds that the weight of the medical evidence is represented by the thorough, well-rationalized medical opinion of Dr. Huff and establishes that appellant no longer has any residuals causally related to his October 14, 2001 work injury.

The Board, therefore, finds that the Office met its burden of proof to terminate appellant's compensation benefits effective February 6, 2004.

LEGAL PRECEDENT -- ISSUE 2

As the Office met its burden of proof to terminate appellant's compensation benefits, the burden shifted to appellant to establish that he had any disability causally related to his accepted injuries.⁸ To establish a causal relationship between the condition, as well as any attendant disability claimed and the employment injury, an employee must submit rationalized medical evidence, based on a complete factual and medical background, supporting such a causal relationship.⁹ Causal relationship is a medical issue and the medical evidence required to establish a causal relationship is rationalized medical evidence.¹⁰ Rationalized medical evidence is medical evidence which includes a physician's rationalized medical opinion on the issue of

⁷ See *Melvina Jackson*, 38 ECAB 443, 449-50 (1987).

⁸ See *Manuel Gill*, 52 ECAB 282 (2001).

⁹ *Id.*

¹⁰ *Elizabeth Stanislav*, 49 ECAB 540 (1998).

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.¹¹

ANALYSIS -- ISSUE 2

In support of his contention that he continues to have employment-related residuals, appellant submitted additional evidence. Medical reports and objective testing from July 1992 to November 12, 2003, were submitted along with a duplicative copy of Dr. Whittle's May 24, 2002 attending physician's report. However, this medical evidence was previously of record and considered when the Office terminated compensation and does not address any period subsequent to the February 6, 2004 termination of compensation benefits. Additionally, none of the reports offer an opinion contrary to that of Dr. Huff, whose opinion constituted the weight of the medical opinion evidence. Although Dr. Whittle opined that appellant's avascular necrosis of both hips was aggravated by the labor on his feet, the physician merely indicated such causal relationship with a checkmark "yes" and failed to provide any medical rationale for his opinion. The Board has held that such an indication without more by way of rationale explaining the relationship of the diagnosed condition to the employment factors does not meet appellant's burden of proof.¹² Thus, Dr. Whittle's report is of limited probative value.

None of the other medical evidence submitted provides a rationalized medical opinion causally relating a diagnosed condition to the October 14, 2001 work injury. The results of the August 3, 2005 x-rays fail to address a causal relationship between the diagnosed condition and the October 14, 2001 employment injury. In his July 28, 2004 CA-20 form, attending physicians report, Dr. Brashear opined, with a checkmark "yes," that appellant aggravated his condition of bilateral aseptic necrosis of femoral heads by the weight load bearing activity of lifting and being on his feet while bailing cotton and unloading trucks in 2001. He further opined that appellant was totally disabled from December 2001 to the present and needed a hip replacement. Although the Dr. Brashear indicated by a "yes" checkmark that appellant's condition was aggravated by his employment, he failed to provide any medical rationale explaining the nexus. As noted above, such an indication without more by way of rationale explaining the relationship of the diagnosed condition to the employment factors does not meet appellant's burden of proof.

In his September 21, 2005 report, Dr. Cotten noted that appellant fell while working as a laborer in 2001 and had a diagnosis of avascular necrosis develop in both of his hips. He additionally noted that appellant had no history of any hip problems prior to this injury. He diagnosed avascular necrosis and recommended surgery. It is well established that medical reports must be based on a complete and accurate factual and medical background and medical opinions based on an incomplete or inaccurate history are of diminished probative value.¹³

¹¹ *Leslie C. Moore*, 52 ECAB 132 (2000); *Victor J. Woodhams*, 41 ECAB 345 (1989).

¹² *See Gary J. Watling*, 52 ECAB 278 (2001).

¹³ *Douglas M. McQuaid*, 52 ECAB (2001).

There is no indication in the record that appellant fell while working in 2001. Dr. Cotten also does not appear to have any knowledge of appellant's prior medical history whereby he injured his right hip. As noted above, Dr. Whittle's May 24, 2002 report notes that appellant had a preexisting hip condition due to jumping in the Army and a 1995 motor vehicle accident. Further, Dr. Cotten did not otherwise explain how appellant's work as a laborer in 2001 caused or aggravated the diagnosed avascular necrosis condition in his hips or provide any explanation why appellant's current condition and his request for surgery would be related to the 2001 work injury.

The mere fact that a disease or condition manifests itself or worsens during a period of employment does not raise an inference that there is a causal relationship between the two.¹⁴ Medical conclusions unsupported by rationale are of diminished probative value and are insufficient to establish causal relation.¹⁵ For the above reasons, the Board finds that Dr. Cotten's report is insufficient to outweigh the well-rationalized report provided by Dr. Huff.

CONCLUSION

The Board finds that the Office met its burden of proof to terminate appellant's compensation benefits effective February 6, 2004 and he failed to establish that he continued to be disabled after that date causally related to his employment injury of October 14, 2001.

ORDER

IT IS HEREBY ORDERED THAT the December 30, 2005 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: June 20, 2006
Washington, DC

David S. Gerson, Judge
Employees' Compensation Appeals Board

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

¹⁴ *Ernest St. Pierre*, 51 ECAB 628 (2000).

¹⁵ *Albert C. Brown*, 52 ECAB 152 (2000).