



compensation, Form CA-7s, for the time periods May 1 to September 17 and October 2 to December 10, 2005.<sup>1</sup>

In a March 29, 2005 report, Dr. Stephen Weil, Board-certified in internal medicine, stated that appellant had new onset of twinges assessed as minor joint derangement. An April 18, 2005 magnetic resonance imaging (MRI) scan report indicated unremarkable appearance of the hips. The MRI scan found that appellant's hips demonstrated no evidence of fracture or avascular necrosis, no significant osteoarthritis and no significant joint effusion. In an April 27, 2005 report, Dr. Anthony Colorito, Board-certified in orthopedic surgery, stated that appellant complained of hip pain but the diagnosis was uncertain as while the pain was emanating from the hip joint the MRI scan was completely normal. He also reported pain deep in the groin with occasional radiation down the anterior leg. In an August 23, 2005 letter to the Office, Dr. Weil stated: "we suspect [there] is a joint derangement of some kind related to that original injury" and that "the MRI [scan]s have not been able to distinguish between it [the problem] and other problems." Dr. Weil stated that the underlying derangement still existed and the inflammation around it had been treated but continues to be exacerbated with any type of pivotal rotational activity. He stated that there was a recurrence in March necessitating a work stoppage. Dr. Weil stated that appellant continues to have a similar symptomatology which was the same as the December 26, 2004 injury which was reexacerbated further on March 4, 2005. He opined that both the December 26, 2004 and the March 4, 2005 injuries were the same injury. In an October 21, 2005, note Dr. Weil stated that appellant was unable to return to work due to a right hip injury on December 26, 2004. On November 9, 2005 the Office informed appellant that there was no medical evidence to support his claim and that further evidence was needed. In a December 5, 2005 report, Dr. Alejandro Kitzis diagnosed chronic right hip pain. Appellant informed Dr. Kitzis that he developed pain in his right hip on December 26, 2004 while at work. In a January 16, 2006 report, Dr. Weil diagnosed right hip pain.

On March 15, 2006 the Office denied appellant's claim for compensation on the grounds that the evidence was insufficient to support disability during the claimed period due to the December 26, 2004 accepted injury.

On April 6, 2006 appellant requested an oral hearing. In an April 12, 2006 note, Dr. Weil stated that appellant was under doctors care for continued right groin pain and was unable to work from April 8 through 12, 2006. In an April 14, 2006 report, Dr. Daniel Hull diagnosed right hip pain. He also noted that appellant was a luggage inspector at the employing establishment screening facility. In a May 2, 2006 report, Dr. Mark Norling, Board-certified in anesthesiology, diagnosed right hip synovitis and performed a right hip injection arthrogram. In a May 23, 2006 note, Dr. Weil diagnosed arthralgia and suspected bursitis. On June 20, 2006 a MRI scan was performed which revealed stable appearance of the pelvis and hips with no abnormalities evident. In an August 4, 2006 report, a nurse practitioner noted that appellant came in with a complaint of left lower back pain while lifting a 20-pound bag.

On August 24, 2006 the Office affirmed the prior decision denying appellant's claim for compensation pursuant to the July 17, 2006 hearing.

---

<sup>1</sup> Appellant also filed a Form CA-7 for February 20 through March 5, 2005 but it was not addressed by the Office therefore the Board does not have jurisdiction over the claim.

Appellant requested reconsideration on February 21, 2007. The Office received additional medical information. In a September 13, 2006 visit note, Dr. Weil diagnosed major arthralgia with unknown etiology. In an October 10, 2006 report, Dr. Norling stated that he performed a right hip injection for appellant's right hip synovitis. In an October 18, 2006 visit note, Dr. Weil diagnosed arthralgia, pain in one or more joints, due to aggravation of previous work injury and stated that appellant was to avoid work at that point. In an October 24, 2006 report, Dr. Norling performed a right ilioinguinal nerve block for appellant's right groin pain. In an October 30, 2006 visit note, Dr. Weil stated that appellant was incapacitated and incapable of working. An October 31, 2006 MRI scan revealed lumbar fusion from L4-S1, minimal annulus bulging L3-4 above the level of the fusion and only mild foraminal stenosis present bilaterally at L4-5. In a November 13, 2006 report, Dr. Weil and Dr. Norling noted unremarkable right hip groin except for mild muscle atrophy globally.

On December 20, 2006 appellant filed a notice of recurrence alleging that he sustained a recurrence on March 4, 2005. In a December 22, 2006 letter, the Office informed appellant that no further action would be taken on the recurrence claim as it was previously addressed in the August 24, 2006 decision.<sup>2</sup>

In a February 8, 2007 letter, Dr. Weil described appellant's history of injury and opined that his working conditions caused his injury. He opined that appellant's condition worsened in February 2005 due to his original injury. Dr. Weil stated that the December 27, 2006 MRI scan showed a labral tear of his right hip joint which he opined has probably been there for two years and was the cause of appellant's problems.

In an April 18, 2007 decision, the Office denied modification of the prior decision on the grounds that the medical evidence was insufficient as Dr. Weil's opinion was speculative and factually inconsistent.

### **LEGAL PRECEDENT**

A claimant, for each period of disability claimed, has the burden of proving by the preponderance of the reliable, probative and substantial evidence that he or she is disabled for work as a result of the employment injury. Whether a particular injury causes an employee to be disabled for employment and the duration of that disability, are medical issues which must be established, probative and substantial evidence.<sup>3</sup>

In this case, appellant has the burden of establishing by the weight of the substantial, reliable and probative evidence, a causal relationship between his claimed disability during the period May 1 through December 5, 2007 and his accepted right groin strain.<sup>4</sup> The Board has held that the mere belief that a condition was caused or aggravated by employment factors or

---

<sup>2</sup> The Office did not specifically address appellant's March 10, 2005 recurrence claim, which was received on December 20, 2006, in any of the decisions therefore the Board does not have jurisdiction over the claim.

<sup>3</sup> *Fereidoon Kharabi*, 52 ECAB 291 (2001).

<sup>4</sup> *Alfredo Rodriguez*, 47 ECAB 437 (1996).

incidents is insufficient to establish a causal relationship between the two.<sup>5</sup> The Board will not require the Office to pay compensation for disability in the absence of medical evidence directly addressing the particular period of disability for which compensation is claimed. To do so would essentially allow employees to self-certify their disability and entitlement to compensation.<sup>6</sup>

### ANALYSIS

Appellant has an accepted injury for right groin strain. He claims that due to his accepted injury he was totally disabled from May 1 to September 17 and October 2 to December 10, 2005.<sup>7</sup> Appellant bears the burden to establish through medical evidence that he was totally disabled during this time period and that his disability was causally related to his accepted injury. He submitted numerous medical reports but none of them provided substantial evidence to establish that he was totally disabled during the time period and that his disability was causally related to his accepted condition. Dr. Weil stated that appellant was incapacitated and unable to work on October 30, 2006 but did not state that he was incapacitated during the claimed time periods. He opined that appellant's condition is an aggravation of a previous work injury but never stated that he was disabled from work during the time periods.<sup>8</sup> There is no medical evidence of appellant being disabled from May 1 to September 17 and October 2 to December 10, 2005. The Board finds that appellant has not proved he was disabled during the claimed time period as a result of his employment injury.

### CONCLUSION

Appellant failed to establish that he was disabled from May 1 to September 17 and October 2 to December 10, 2005.

---

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

<sup>6</sup> *Fereidoon Kharabi, supra* note 3.

<sup>7</sup> Appellant filed a Form CA-7 for February 20 through March 5, 2005 but it was not addressed in the merit decision from the Office therefore the Board does not have jurisdiction over that time period.

<sup>8</sup> The issues of whether appellant's March 4, 2005 hip injury is a consequential injury or whether the recently diagnosed tear of his right hip joint is related to his accepted injury are not before the Board. The only issue before the Board is whether appellant was disabled during the claimed time period because of his accepted injury.

**ORDER**

**IT IS HEREBY ORDERED THAT** the April 18, 2007 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: May 5, 2008  
Washington, DC

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

David S. Gerson, Judge  
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board