United States Department of Labor
Employees' Compensation Appeals Board

M.K., Appellant	)	
and	)	**Docket No. 10-866**
	)	**Issued: November 24, 2010**
U.S. POSTAL SERVICE, POST OFFICE, Chamblee, GA, Employer	)	

Appearances:
Tim Egbuchunam, for the appellant
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Chief Judge
MICHAEL E. GROOM, Alternate Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On February 17, 2010 appellant, through his representative, filed a timely appeal from the January 15, 2010 merit decision of the Office of Workers' Compensation Programs, which denied authorization for right hip surgery. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction to review the merits of the case.

ISSUE

The issue is whether the Office properly denied authorization for right hip surgery.

FACTUAL HISTORY

On July 30, 2005 appellant, then a 47-year-old letter carrier, sustained an injury in the performance of duty: "Due to wet surface on metal step-up in the LLV I slip and twisted my right hip and then attempted to grab something, pulled my right shoulder." The Office accepted his claim for sprain/strain of the right shoulder, arm, right hip and thigh. It also later accepted degeneration of a lumbosacral disc, lumbar postlaminectomy syndrome and congenital spondylolisthesis.

On September 23, 2005 appellant provided the following history of injury: "Patient states he was performing his usual duties as a letter carrier when he slipped on a wet surface and began to fall when he grabbed the mirror with his hand to attempt to break his fall."

On April 26, 2007 Dr. Thomas Branch, appellant's orthopedic surgeon, described the history of injury as follows: "On July 30, 2005 [appellant] was climbing up into the postal truck. His foot slipped and he twisted around to the side slamming his right hip and back into the truck while his right hand was holding the mirror."

On April 7, 2009 Dr. Branch related the history of injury: "He sustained an on[-]the[-] job injury July 30, 2005 when he fell out of his mail truck striking his right side and back with enough force to sustain a lower back fracture which required stabilization surgery in February 2008.… Recently, it was discovered that the hip has completely deteriorated." Dr. Branch noted that appellant reported no injury or complaints to the right hip prior to his on-the-job injury, and he had no signs or symptoms of a systemic or biological arthritis as a cause of the right hip deterioration. He added that the left hip appeared normal.

X-rays showed a severe collapse of the right hip. Dr. Branch addressed causal relationship and the need for surgery:

> "[Appellant's] right hip arthritis more likely than not falls into the category of mechanical arthritis related to the original fall and on[-]the[-]job injury. It is likely that the fall damaged the hip creating chondrolysis or other kind of chondral damage that has caused or contributed to its current condition and need for a total hip replacement. The need for back surgery and the changes in gait and function due to the back surgery additionally underscores the connection between the hip deterioration and his on[-]the[-]job injury."

An Office medical adviser reviewed Dr. Branch's report, noting that the accepted condition was right hip strain. He advised: "Total hip replacement is not an appropriate treatment for a strain injury."

On June 24, 2009 Dr. Barry Koffler, an orthopedic surgeon and second opinion physician, agreed that surgery was warranted but not as a result of the July 30, 2005 injury. He stated: "The treatment [total hip replacement] is indicated, but there is no documentation of any temporal relationship between the patient's injury in 2005 and the present problem from which he suffers at the present time. He relates very clearly that the hip pain from which he suffers now has been a problem for the last year. There is no documentation that it was a problem before the last year."

Appellant underwent a total right hip replacement on July 20, 2009.

On August 10, 2009 the Office denied authorization for the right hip surgery. It found that Dr. Koffler represented the weight of the medical evidence because he reviewed the medical record and the statement of accepted facts.

On September 10, 2009 Dr. John W. Ellis, appellant's osteopath, related the history of injury: "On July 30, 2005 [appellant] stepped out of his … mail truck and slipped. He grabbed

the mirror handle and swung in the air hitting his right hip and straining his right shoulder, right hip and right back." Dr. Ellis diagnosed, among other things, contusion of the right hip with internal derangement requiring hip surgery on July 20, 2009 and concluded that this diagnosis arose out of and in the course of employment. He stated:

> "As [appellant] swung on the [postal truck], he strained his right shoulder, right wrist and back. He contused his right hip and right knee. The right knee improved. The back continued to hurt with deranged discs requiring back surgery of February 28, 2006. The right hip continued to hurt requiring the right hip replacement surgery on July 20, 2009."

On September 22, 2009 Dr. Branch reported on diagnostic testing:

> "[Appellant] returns today with the MRI [magnetic resonance imaging] scan of the left hip confirming the absence of avascular necrosis. Clearly, his right hip issue is more likely than not related to the injury on the job and not avascular necrosis. As you know AVN or avascular necrosis tends to be bilateral in nature and since his left hip is normal it is more likely than not the cause of his right hip degeneration."

On January 15, 2010 the Office reviewed the merits of appellant's claim and denied modification of its August 10, 2009 decision.

LEGAL PRECEDENT

Section 8103(a) of the Federal Employees' Compensation Act provides that the United States shall furnish to an employee who is injured while in the performance of duty the services, appliances and supplies prescribed or recommended by a qualified physician that the Secretary of Labor considers likely to cure, give relief, reduce the degree or the period of any disability or aid in lessening the amount of any monthly compensation.[1] The Office must therefore exercise discretion in determining whether the particular service, appliance or supply is likely to effect the purposes specified in the Act.[2] The only limitation on the Office's authority is that of reasonableness.[3]

The Office's obligation to pay for medical treatment under section 8103 of the Act extends only to treatment of employment-related conditions and appellant has the burden of establishing that the requested treatment is for the effects of an employment-related condition. Proof of causal relation must include rationalized medical evidence.[4] Medical conclusions

[1] 5 U.S.C. § 8103(a). These services include surgery and hospitalization. Federal (FECA) Procedure Manual, Part 3 -- Medical, *Overview*, Chapter 3.100.2.a (October 1990).

[2] *See Marjorie S. Geer*, 39 ECAB 1099 (1988) (the Office has broad discretionary authority in the administration of the Act and must exercise that discretion to achieve the objectives of section 8103).

[3] *Daniel J. Perea*, 42 ECAB 214 (1990).

[4] *Debra S. King*, 44 ECAB 203 (1992).

unsupported by rationale are of little probative value.[5] Medical conclusions based on inaccurate or incomplete histories are also of little probative value.[6]

ANALYSIS

Appellant seeks authorization for his right total hip replacement on July 20, 2009. He has the burden of establishing that the surgery was for the effects of an employment-related condition.

Supporting his request are reports from Dr. Branch, his orthopedic surgeon, and Dr. Ellis, his osteopath. However, these doctors based their opinions on a history of injury that differs materially from what is found in the factual and medical evidence contemporaneous to the July 30, 2005 injury at work. The contemporaneous evidence indicates that appellant slipped and twisted his hip and was diagnosed with a sprain/strain. Two years later, Dr. Branch reported that appellant slammed his right hip and back into the truck, striking his right side and back with enough force to sustain a lower back fracture. Dr. Ellis also described an impact injury, reporting that appellant swung in the air hitting his right hip and contusing it. To the extent that this unsupported history of forceful impact led these doctors to conclude that appellant's total hip replacement was a result of what happened on July 30, 2005, the Board finds their opinions to be of diminished probative value.

Dr. Branch noted that appellant had no signs or symptoms of a systemic or biological arthritis as a cause of the right hip deterioration and he noted that the left hip appeared normal. He concluded that appellant's hip arthritis was mechanical, but he did not soundly explain, how the slip and twist incident on July 30, 2005 contributed to total hip replacement four years later. Dr. Branch did not address what clinical findings from the date of injury forward supported his opinion. He did not explain how changes in gait and function due to back surgery caused unilateral hip deterioration. Dr. Ellis offered no reference to the medical record to support his view that appellant suffered a contusion and internal derangement on July 30, 2005. He simply stated that the right hip "continued to hurt requiring the right hip replacement surgery." Because these reports lack sufficient rationale to establish a causal relationship between the work incident on July 30, 2005 and appellant's hip replacement on July 20, 2009, the Board finds that they are of diminished value.

Dr. Koffler based his opinion on a proper medical history. He reviewed the medical record and the statement of accepted facts, and he did not support a temporal relationship between the incident in 2005 and appellant's current hip problem in 2009. Indeed, appellant made clear that his hip pain had been a problem "for the last year." Absent any bridging documentation of an internal hip injury, Dr. Koffler concluded that right hip surgery was not a result of the July 30, 2005 injury.

[5] *Ceferino L. Gonzales*, 32 ECAB 1591 (1981); *George Randolph Taylor*, 6 ECAB 968 (1954).

[6] *James A. Wyrick*, 31 ECAB 1805 (1980) (physician's report was entitled to little probative value because the history was both inaccurate and incomplete). *See generally Melvina Jackson*, 38 ECAB 443, 450 (1987) (addressing factors that bear on the probative value of medical opinions).

The Office has broad discretionary authority under section 8103 of the Act. Given the lack of convincing supporting evidence and the lack of bridging documentation, the Board finds that the Office acted reasonably in denying authorization for appellant's total right hip replacement. The Board will therefore affirm the Office's January 15, 2010 decision.

CONCLUSION

The Board finds that the Office did not abuse its discretion in denying authorization for right hip surgery.

ORDER

IT IS HEREBY ORDERED THAT the January 15, 2010 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: November 24, 2010
Washington, DC

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

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

James A. Haynes, Alternate Judge
Employees' Compensation Appeals Board