

**United States Department of Labor
Employees' Compensation Appeals Board**

M.C., Appellant)	
)	
and)	Docket No. 11-1699
)	Issued: April 4, 2012
DEPARTMENT OF COMMERCE, U.S.)	
CENSUS BUREAU, Monterey Park, CA,)	
Employer)	
)	

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

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

JURISDICTION

On July 18, 2011 appellant filed a timely appeal from a February 24, 2011 merit decision of the Office of Workers' Compensation Programs (OWCP) denying his claim for occupational disease. Pursuant to the Federal Employees' Compensation Act¹ (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of the case.

ISSUE

The issue is whether appellant established that his ventral hernia is causally related to factors of his federal employment.

FACTUAL HISTORY

On April 2, 2010 appellant, then a 77-year-old supply clerk, filed an occupational disease claim alleging that he sustained an injury as a result of his employment. He explained that he

¹ 5 U.S.C. § 8101 *et seq.*

developed ventral hernia due to his work duties, which he had performed since November 2008. Appellant stated that his duties required repetitive lifting, carrying and stacking of as many as 140 boxes at a time, many weighing as much as 50 pounds.

In a December 18, 2009 note, Dr. Albert A. Samadi, a Board-certified urologist, diagnosed appellant with benign prostatic hyperplasia and a ventral hernia. In a December 31, 2009 progress note, Dr. Scott Patterson, a Board-certified surgeon, diagnosed appellant with symptomatic ventral incarcerated hernia. He noted that appellant was “unsure as to how long he has had” this condition. Dr. Patterson obtained a history that appellant had a prior inguinal hernia repair, as well as umbilical hernia repair. He recommended surgical treatment of the ventral hernia.

OWCP received a January 13, 2010 preoperative report from Dr. Stella Tanedo, Board-certified in internal medicine. This report noted appellant’s history of abdominal pain and ventral hernia. It stated that surgical repair of the ventral hernia was scheduled for January 20, 2010.

In a March 15, 2010 report, Dr. Samadi diagnosed appellant with benign prostatic hyperplasia and urge incontinence. He stated that physical exertion and lifting objects had delayed appellant’s recovery and that he would recover by April 19, 2010. On April 26, 2010 Dr. Samadi diagnosed appellant with inguinal hernia. He stated that appellant “cannot perform any lifting heavier than 10 pounds” and that appellant’s “recent exertion has resulted in hematuria,” which complicated his injury. Dr. Samadi established that it would take 6 to 12 months or maybe longer before appellant would be able to perform his regular duties. Appellant also submitted a position description for supply clerk position.

On June 14, 2010 OWCP informed appellant that the evidence submitted was not sufficient to establish his claim. Appellant was advised that he should submit a medical report which explained, with medical rationale, how his ventral hernia condition was causally related to his employment.

Appellant submitted a June 21, 2010 report from Dr. Samadi, who diagnosed hematuria secondary to hernia. He was restricted from lifting or carrying items exceeding 20 pounds in weight and stated that “where work factors require the regular lifting or carrying of items exceeding 20 pounds have, as in the present diagnosed condition caused or aggravated a hernia injury, [he] is restricted from working in that environment.”

By decision dated August 17, 2010, OWCP denied appellant’s claim on the grounds that the medical evidence failed to establish that the diagnosed ventral hernia condition was causally related to his work activities.

Appellant disagreed with the decision and requested an oral hearing on August 23, 2010. A hearing was held on December 3, 2010. Appellant testified that he was unable to secure a narrative medical report that included a rationalized opinion on causation because his physician was prohibited from preparing such reports in workers’ compensation claims.

Several witness statements were submitted to the record from coworkers who concurred that appellant's job duties required lifting. The statements also noted that no specific injury had been witnessed.

In a February 24, 2011 decision, an OWCP hearing representative affirmed the August 17, 2010 denial of appellant's claim.

LEGAL PRECEDENT

An employee seeking benefits under FECA² has the burden to establish the essential elements of his claim including the fact that the individual is an employee of the United States within the meaning of FECA, that the claim was timely filed, that an injury was sustained in the performance of duty as alleged and that any disability or medical condition for which compensation is claimed is causally related to the employment injury.³

To establish that an injury was sustained in the performance of duty in a claim for occupational disease, an employee must submit: (1) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; (2) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; and (3) medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the employee.⁴

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on whether there is a causal relationship between the employee's diagnosed condition and the compensable employment factors. The opinion of the physician must be based on a complete factual and medical background of the employee, 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 employee.⁵

ANALYSIS

Appellant has described his work duties, which required repetitive lifting, carrying and stacking of heavy boxes. He has also explained that he performed these duties since November 2008. In support of his claim, appellant submitted several medical reports which provide a diagnosis of ventral hernia. However, none of the medical reports are sufficient to establish his claim because they do not provide a rationalized medical explanation as to how his diagnosed condition was causally related to his work duties.

² 5 U.S.C. §§ 8101-8193.

³ *Steven S. Saleh*, 55 ECAB 169 (2003); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁴ *See Roy L. Humphrey*, 57 ECAB 238, 241 (2005); *Ruby I. Fish*, 46 ECAB 276, 279 (1994).

⁵ *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

While appellant submitted several reports from Dr. Samadi, only the April 26 and June 21, 2010 reports discussed causal relationship. In the April 26, 2010 report, Dr. Samadi stated that appellant's "recent exertions" has resulted in complication of his condition; however, this report diagnosed appellant with inguinal hernia (Diagnosis Code 550.90) instead of ventral hernia (Diagnosis Code 553.20). As this report did not refer to appellant's claimed condition, it is of limited probative value.

The only report from Dr. Samadi that included both a diagnosis of ventral hernia and reference to work factors was the report dated June 21, 2010. This report stated that "where work factors require the regular lifting or carrying of items exceeding 20 pounds have, as in the present diagnosed condition caused or aggravated a hernia injury, [appellant] is restricted from working in that environment." The Board finds that this statement is general in nature, does not specifically refer to appellant and does not offer medical rationale explaining how his lifting and carrying duties resulted in his condition. Medical reports which lack rationale explaining causal relationship are of little probative value.⁶ As such, the Board finds that this medical report is not sufficient to establish causal relationship.

Appellant submitted a December 31, 2009 report from Dr. Patterson, and a preoperative January 13, 2010 report from Dr. Tanedo, who both diagnosed a ventral hernia. Neither report, however, provided any opinion regarding the cause of this diagnosed condition.

There is insufficient rationalized medical evidence of record to establish that appellant's diagnosed condition was caused or aggravated by his federal employment duties, as alleged. The Board finds that he has failed to meet his burden of proof.

CONCLUSION

The Board finds that appellant failed to establish that his ventral hernia was caused by his federal employment.⁷

⁶ See *Mary E. Marshall*, 56 ECAB 420 (2005) (medical reports that do not contain rationale on causal relationship have little probative value).

⁷ Appellant may submit additional evidence, together with a written request for reconsideration, to OWCP within one year of the Board's merit decision, pursuant to 5.U.S.C. § 8128(a) and 20 C.F.R. §§ 10.606 and 10.607.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated February 24, 2011 is affirmed.

Issued: April 4, 2012
Washington, DC

Alec J. Koromilas, Judge
Employees' Compensation Appeals Board

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

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