

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

C.G., Appellant)

and)

DEPARTMENT OF HOMELAND SECURITY,)
TRANSPORTATION SECURITY)
ADMINISTRATION, Nashville, TN, Employer)

**Docket No. 11-1602
Issued: March 23, 2012**

Appearances:

*Alan J. Shapiro, Esq., for the appellant
Office of Solicitor, for the Director*

Case Submitted on the Record

DECISION AND ORDER

Before:

RICHARD J. DASCHBACH, Chief Judge
COLLEEN DUFFY KIKO, Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On June 28, 2011 appellant, through her attorney, filed a timely appeal from an April 29, 2011 merit decision of the Office of Workers' Compensation Programs (OWCP). 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 this claim.²

¹ 5 U.S.C. § 8101 *et seq.*

² The Board notes that appellant submitted additional evidence after OWCP rendered its April 29, 2011 decision. The Board's jurisdiction is limited to reviewing the evidence that was before OWCP at the time of its final decision. Therefore, this additional evidence cannot be considered by the Board. 20 C.F.R. § 510.2(c)(1); *Dennis E. Maddy*, 47 ECAB 259 (1995); *James C. Campbell*, 5 ECAB 35, 36 n.2 (1952). Appellant may submit this evidence to OWCP, together with a formal request for reconsideration, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. § 10.606(b)(2).

ISSUE

The issue is whether appellant met her burden of proof to establish that her uterine prolapse was causally related to her accepted July 12, 2005 injury.

FACTUAL HISTORY

On July 18, 2005 appellant, then a 52-year-old transportation security screener, filed a traumatic injury claim Form CA-1 alleging that on July 12, 2005 she sustained a lower abdomen injury when she was lifting bags and felt a pull in her lower abdomen. OWCP accepted her claim for abdominal muscle sprain/strain. Appellant returned to work on July 18, 2005 with lifting restrictions of five pounds. On January 10, 2006 she accepted a light-duty position with lifting restrictions of 15 pounds.

On May 31, 2010 appellant filed a claim for a recurrence of total disability as of November 9, 2005. She explained that she had reconstructive pelvic surgery on November 9, 2005 for uterine prolapse, which was caused by the accepted July 12, 2005 lifting incident. Appellant stated that the emergency room physician she initially saw in July 2005 diagnosed abdominal sprain because he was unsure what to call her condition, but that it was actually a uterine prolapse.

In a July 18, 2005 emergency room report, Dr. Robert Moskowitz, Board-certified in emergency medicine, diagnosed appellant with abdominal pain.

In an undated attending physician's report Form CA-20 with an illegible signature, appellant's physician reported that he treated her on July 18, 2005. Appellant complained of lifting luggage at work when she felt something pull. The physician diagnosed uterine prolapse and stated that the employment incident aggravated her condition because the intra-abdominal pressure/strain pushed out the prolapse.

By letter dated June 22, 2006, Dr. SkyHawk Fadigan, Board-certified in family medicine, reported that on July 12, 2005, appellant was lifting an object weighing over 40 pounds when she felt a pulling sensation and a fullness vaginally. She reported that appellant noted cervical protrusion vaginally and manually pushed the cervix back up into the vagina, somewhat relieving the pressure. Dr. Fadigan further stated that appellant had to repeat this on several occasions between July 12 and August 2, 2005. She stated that appellant's July 12, 2005 injury resulted in uterine prolapse. Dr. Fadigan also noted that this condition was not previously diagnosed and to the best of her knowledge appellant had no symptoms prior to the lifting incident.

In a July 31, 2006 medical report, Dr. Melissa Reynolds, Board-certified in obstetrics and gynecology, reported that appellant underwent pelvic reconstructive surgery in 2005. She stated that on December 19, 2005, appellant had a normal postoperative examination and a full release to work except for lifting over 20 pounds. Dr. Reynolds further stated that appellant had fully recovered after her pelvic reconstructive surgery. By letter dated May 15, 2008, she stated that appellant's pelvic prolapse was present before July 12, 2005. In a March 30, 2010 medical report, Dr. Reynolds reiterated that appellant had fully recovered but could not lift more than 20 pounds.

By letter dated July 19, 2010, OWCP informed appellant that the evidence of record was insufficient to support her claim. Appellant was advised of the medical and factual evidence needed and was directed to submit it within 30 days.

By decision dated August 31, 2010, OWCP denied appellant's recurrence claim for the period beginning November 9, 2005.

On September 13, 2010 appellant, through her representative, requested an oral hearing before the Branch of Hearings and Review.

At the January 18, 2011 hearing, counsel argued that her initial July 12, 2005 injury should have been documented as uterine prolapse and not abdominal sprain. He argued that the uterine prolapse necessitated the need for surgery on November 9, 2005.

At the hearing, appellant testified that she was lifting a heavy bag on July 12, 2005 when she felt a pull in her abdomen and vagina. She was passing blood and things were coming out of her vagina which she had to push back in. Appellant stated that she went to the emergency room a few days later and was treated by Dr. Moskowitz, who was unclear what her condition was and diagnosed abdominal sprain, recommending she follow up with her family physician. She testified that prior to 2005, Dr. Reynolds noted no significant prolapse and stated that it did not affect her. On August 18, 2005 Dr. Reynolds diagnosed pelvic prolapse for which appellant underwent surgery on November 9, 2005. Appellant noted that she was on light duty after her July 12, 2005 incident, stopped work on November 9, 2005 for her surgery and returned to light duty on January 9, 2006. She stated that she was seeking a recurrence to receive compensation for the time she took off due to her November 9, 2005 surgery.

In support of her claim, appellant submitted medical records dated March 20, 2003 to January 18, 2006.

In a March 20, 2003 progress note, Dr. Reynolds diagnosed appellant with pelvic prolapse and noted that the condition did not affect appellant. In an August 18, 2005 progress note, she diagnosed uterine prolapse.

In a November 4, 2005 medical report, Dr. Christopher C. Hill, Board-certified in urology, reported that appellant described a recent episode at her employment as a bag handler when she had the abrupt onset of pelvic pain and pressure. He stated that it appeared that her prolapse worsened suddenly and noted a significant cystocele. Dr. Hill diagnosed pelvic prolapse and recommended surgery. On November 9, 2005 appellant underwent a total vaginal hysterectomy, bilateral salpingo-oophorectomies, enterocele repair, vaginal repair, IVS tunneler vaginapexy, anterior and posterior repair, vaginal sling and a cystoscopy procedure. On January 18, 2006 Dr. Hill noted that her postoperative examination showed that she was healing well.

By decision dated April 29, 2011, OWCP's hearing representative affirmed the August 31, 2010 OWCP decision finding that the medical evidence did not establish that appellant's uterine prolapse was causally related to the accepted July 12, 2005 injury. The hearing representative also noted that due to conflicting medical reports, the evidence did not support that appellant sustained a medical condition more severe than abdominal sprain.

LEGAL PRECEDENT

Where an employee claims that a condition not accepted or approved by OWCP was due to an employment injury, she bears the burden of proof to establish that the condition is causally related to the employment injury.³ To establish a causal relationship between the condition, as well as any attendant disability claimed and the employment event or incident, the employee must submit rationalized medical opinion evidence based on a complete factual and medical background, supporting such a causal relationship.⁴ Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on the issue of 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. This medical opinion must include an accurate history of the employee's employment injury and must explain how the condition is related to the injury. The weight of medical evidence is determined by its reliability, its probative value, its convincing quality, the care of analysis manifested and the medical rationale expressed in support of the physician's opinion.⁵

ANALYSIS

OWCP accepted that appellant sustained an abdominal sprain on July 12, 2005 in the performance of duty. Though appellant filed a recurrence claim, she is alleging that her uterine prolapse is a result of the July 12, 2005 employment incident and not a result of a spontaneous change in her medical condition which resulted from her previous injury. Thus, the issue on appeal is not whether she sustained a recurrence of disability but whether she has established that the July 12, 2005 incident caused her uterine prolapse, commencing the need for surgery on November 9, 2005.

In a March 20, 2003 progress note, Dr. Reynolds diagnosed appellant with pelvic prolapse and noted that the condition did not affect appellant. In an August 18, 2005 progress note, she diagnosed uterine prolapse. Appellant underwent surgery for her uterine prolapse on November 9, 2005. In a July 31, 2006 medical report, Dr. Reynolds reported that appellant had fully recovered after her pelvic reconstructive surgery and was restricted to lifting 20 pounds. By letter dated May 15, 2008, she stated that appellant's pelvic prolapse was present before July 12, 2005.

While Dr. Reynolds provided a history of injury and diagnosed appellant's uterine prolapse, her report does not contain an opinion on the cause of appellant's condition. Moreover, she identifies appellant's uterine prolapse as a preexisting condition from March 2003, predating the July 12, 2005 incident. Medical evidence which does not offer an opinion regarding the

³ *Jaja K. Asaramo*, 55 ECAB 200 (2004).

⁴ *See* 20 C.F.R. § 10.110(a); *John M. Tornello*, 35 ECAB 234 (1983).

⁵ *James Mack*, 43 ECAB 321 (1991).

cause of an employee's condition is of limited probative value on the issue of causal relationship.⁶ Thus, Dr. Reynolds' reports are insufficient to establish appellant's claim.

In a November 4, 2005 medical report, Dr. Hill reported that appellant described a recent episode at her employment as a bag handler when she had the abrupt onset of pelvic pain and pressure. He stated that it appeared that her prolapse worsened suddenly. Dr. Hill diagnosed pelvic prolapse and recommended surgery which occurred on November 9, 2005.

Dr. Hill's description of a "recent" episode at appellant's employment which brought forth the abrupt onset of pelvic pain makes it unclear if he is referring to the July 12, 2005 employment incident or describing an incident having occurred on another date. He noted that her prolapse worsened suddenly but did not explain how the condition was causally related to the July 12, 2005 employment incident. Dr. Hill also failed to address appellant's prior medical history or identify her preexisting uterine prolapse condition in his medical report. The Board has held that a medical opinion that is not fortified by rationale is of diminished probative value.⁷ Therefore, Dr. Hill's report is of limited probative value.

By letter dated June 22, 2006, Dr. Fadigan reported that on July 12, 2005, appellant was lifting an object weighing over 40 pounds when she felt a pulling sensation and a fullness vaginally. She stated that appellant's July 12, 2005 injury resulted in uterine prolapse. Dr. Fadigan also noted that this condition was not previously diagnosed and to the best of her knowledge, appellant had no symptoms prior to the lifting incident.

The Board finds that the opinion of Dr. Fadigan is not well rationalized. Though Dr. Fadigan provided an opinion on causal relationship regarding appellant's uterine prolapse and the July 12, 2005 employment incident, she failed to explain how the lifting of the luggage caused appellant's injury. She related appellant's statements of the physical symptoms she experienced on July 12, 2005, but Dr. Fadigan did not explain how physiologically lifting a bag would have caused or aggravated a uterine prolapse. Additionally, Dr. Fadigan had an improper factual background of appellant's medical history, stating that her uterine prolapse had not been previously diagnosed. Her history of injury is inconsistent with the evidence of record, which indicates that appellant had a preexisting uterine prolapse condition. Without medical reasoning supported by facts, Dr. Fadigan's report is insufficient to meet appellant's burden of proof.⁸

The remaining medical evidence is also insufficient to support appellant's claim. In a July 18, 2005 emergency room report, Dr. Moskowitz diagnosed appellant with abdominal pain and made no mention of a uterine prolapse. Further, the undated attending physician's report which contained an illegible signature has no probative value as it is not established that the author is a physician.⁹

⁶ *Franklin D. Haislah*, 52 ECAB 457 (2001); *Jimmie H. Duckett*, 52 ECAB 332 (2001).

⁷ *Ceferino L. Gonzales*, 32 ECAB 1591 (1981).

⁸ *C.B.*, Docket No. 08-1583 (issued December 9, 2008).

⁹ *See D.D.*, 57 ECAB 734 (2006); *Merton J. Sills*, 39 ECAB 572, 575 (1988).

Appellant did not submit any medical reports from a physician who, on the basis of a complete and accurate factual and medical history, concluded that her uterine prolapse was caused or aggravated by the July 12, 2005 employment incident, resulting in the need for surgery on November 9, 2005. As she has not submitted sufficient medical evidence showing that she sustained a uterine prolapse due to the July 12, 2005 incident, the Board finds that she has not met her burden of proof.

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

CONCLUSION

The Board finds that appellant did not meet her burden of proof to establish that her uterine prolapse is causally related to the July 12, 2005 employment incident.

ORDER

IT IS HEREBY ORDERED THAT the April 29, 2011 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: March 23, 2012
Washington, DC

Richard J. Daschbach, Chief Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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