

FACTUAL HISTORY

In the prior appeal,² the Board affirmed OWCP's January 15, 2010 decision denying authorization for appellant's July 20, 2009 right hip replacement. The Board found that he had not met his burden to establish that the surgery was for the effects of an employment-related condition. The evidence contemporaneous to the July 30, 2005 traumatic injury noted that appellant, in his capacity as a letter carrier, had slipped on the wet metal step-up to his postal vehicle and twisted his right hip.

In 2007, Dr. Thomas Branch, the attending orthopedic surgeon, reported that, when appellant's foot slipped, he twisted around to the side and slammed his right hip and back into the truck as he held the mirror with his right hand. Two years later, in 2009, he reported that appellant fell out of his mail truck, striking his right side and back with enough force to sustain a lower back fracture requiring stabilization surgery in 2008. Also in 2009, Dr. John W. Ellis, the attending osteopath, related an impact injury when appellant slipped, swung in the air and hit his right hip, causing a contusion and internal derangement requiring surgery.

The Board found that Dr. Branch and Dr. Ellis based their opinions on a history of injury that differed materially from what was found in the factual and medical evidence contemporaneous to the July 30, 2005 work injury. To the extent that the unsupported history of a forceful impact led these doctors to conclude that appellant's total hip replacement was a result of what happened in 2005, the Board found their opinions to be of diminished probative value.

Dr. Barry Koffler, an orthopedic surgeon and second opinion physician, found that surgery was not a result of what happened on July 30, 2005. He observed that there was no documentation of any temporal relationship between the 2005 work injury and the hip problem from which appellant suffered in 2009. There was no documentation that appellant's hip was a problem before 2008. Given the lack of probative evidence supporting causal relationship and the lack of bridging documentation, the Board found that OWCP had acted reasonably in denying authorization for the surgery. The facts of this case are hereby incorporated by reference.

On August 4, 2011 Dr. M. Stephen Wilson, specializing in injury evaluation and rehabilitation, examined appellant and offered an opinion on the causal relationship between his federal employment and his right hip replacement. He related that on July 30, 2005 appellant stepped out of his mail truck and slipped. As appellant fell, he grabbed onto the handle of his truck, causing him to swing around and hit his right shoulder and hip on the vehicle. He had immediate pain in his back, right hip and right shoulder.

Dr. Wilson noted that appellant suffered from right hip pain after receiving a schedule award in August 2008. X-rays revealed a severe collapse of the right hip and he was diagnosed with right hip osteoarthritis, for which Dr. Branch performed a total hip arthroplasty in 2009.

Dr. Wilson found that appellant developed degenerative changes in his right hip due to his work-related accident and cumulative work-related duties while employed as a letter carrier

² Docket No. 10-866 (issued November 24, 2010).

for 26 years. It was his opinion that physically demanding repetitive duties could definitely cause degenerative changes and could actually progress degenerative changes in an accelerated manner following a traumatic injury.

On January 18, 2012 OWCP reviewed the merits of appellant's case and denied modification of its prior decision. It found that Dr. Wilson provided insufficient rationale based on objective evidence. OWCP noted that attributing the right hip condition to appellant's regular work duties was a completely different allegation than appellant made on his traumatic injury claim form. It noted that evidence providing a completely different explanation of the need for surgery weakened his claim.

LEGAL PRECEDENT

Section 8103(a) of FECA 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.³ OWCP must therefore exercise discretion in determining whether the particular service, appliance or supply is likely to affect the purposes specified in FECA.⁴ The only limitation on OWCP's authority is that of reasonableness.⁵

OWCP's obligation to pay for medical treatment under section 8103 of FECA 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.⁶ Medical conclusions unsupported by rationale are of little probative value.⁷ Medical conclusions based on inaccurate or incomplete histories are also of little probative value.⁸

ANALYSIS

Appellant continues to seek authorization for his right total hip replacement on July 20, 2009. As before, he bears the burden of establishing that the surgery was for the effects of an employment-related condition.

³ 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).

⁴ See *Marjorie S. Geer*, 39 ECAB 1099 (1988) (OWCP has broad discretionary authority in the administration of FECA and must exercise that discretion to achieve the objectives of 5 U.S.C. § 8103).

⁵ *Daniel J. Perea*, 42 ECAB 214 (1990).

⁶ *Debra S. King*, 44 ECAB 203 (1992).

⁷ *Ceferino L. Gonzales*, 32 ECAB 1591 (1981); *George Randolph Taylor*, 6 ECAB 968 (1954).

⁸ *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).

Appellant submitted a report from Dr. Wilson, a specialist in injury evaluation and rehabilitation, who, however, related the history of an impact injury to the right hip. As the Board explained in the prior appeal, this history differs materially from the history found in the factual and medical evidence contemporaneous to the July 30, 2005 work injury. To the extent that the unsupported history of an impact led Dr. Wilson to conclude that appellant's total hip replacement was a result of what happened on July 30, 2005, the Board finds his opinion to be of diminished probative value.

Dr. Wilson's report did not bridge the evidentiary gap between the initial right hip pain appellant felt following his accepted July 30, 2005 slip and twist injury and the pain he complained of in 2008, which led to x-rays and eventually a total hip replacement in 2009. He did not explain how, pathologically speaking, the July 30, 2005 work incident caused or aggravated degenerative changes in appellant's right hip, nor did he identify objective evidence to support that relationship.

Further, Dr. Wilson attributed the need for surgery to the physical demands of appellant's job over time, thereby describing an occupational injury appellant has not claimed and OWCP has not accepted.

OWCP has broad discretionary authority under section 8103 of FECA. As Dr. Wilson related a history of injury that is not established by the record, and as he provided insufficient medical rationale causally connecting appellant's 2009 total hip replacement to what happened on July 30, 2005, the Board finds that OWCP acted reasonably in denying modification of its prior decision to deny authorization for the surgery.⁹ The Board will affirm OWCP's January 18, 2012 decision.

CONCLUSION

The Board finds that OWCP properly denied authorization for right hip surgery.

⁹ Dr. Wilson's opinion, thus, does not create a conflict with the opinion given by Dr. Koffler, the second opinion orthopedic surgeon.

ORDER

IT IS HEREBY ORDERED THAT the January 18, 2012 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: November 5, 2012
Washington, DC

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

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

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