United States Department of Labor
Employees' Compensation Appeals Board

E.M., Appellant	)	
and	)	**Docket No. 12-950**
	)	**Issued: September 25, 2012**
DEPARTMENT OF VETERANS AFFAIRS, SAN JUAN MEDICAL CENTER, San Juan, PR, Employer	)	

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

Case Submitted on the Record

DECISION AND ORDER

Before:
COLLEEN DUFFY KIKO, Judge
PATRICIA HOWARD FITZGERALD, Judge
MICHAEL E. GROOM, Alternate Judge

JURISDICTION

On March 27, 2012 appellant filed a timely appeal from the January 3, 2012 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act[1] (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.[2]

ISSUE

The issue is whether appellant met his burden of proof to establish that he sustained an injury causally related to factors of his federal employment.

[1] 5 U.S.C. § 8101 *et seq.*

[2] The Board notes that appellant submitted evidence subsequent to the January 3, 2012 OWCP decision. The Board cannot consider this evidence, however, as its review of the case is limited to the evidence of record which was before OWCP at the time of its final decision. 20 C.F.R. § 501.2(c).

FACTUAL HISTORY

On September 28, 2011 appellant, then a 53-year-old diagnostic radiologic technologist, filed an occupational disease claim alleging that he sustained a right knee and right shoulder conditions after 28 years in the performance of duty. He first became aware of the injury and its relation to his work on March 1, 2011.

In an August 1, 2011 magnetic resonance imaging (MRI) scan report of the right shoulder, Dr. Eduardo Acosta, a Board-certified diagnostic radiologist, diagnosed supra and infraspinatus tendinopathy, focal small undersurface supraspinatus tear, anterior superior labral tear with associated paralabral cyst, bursitis and hypertrophic changes at the acromioclavicular joint impressing upon the supraspinatus tendon.

In an August 29, 2011 x-ray, Dr. Luis Alonso-Dafauce, a Board-certified diagnostic radiologist, diagnosed right shoulder peritendinosis calcarea. He also provided an x-ray of the right knee on the same date and diagnosed severe degenerative osteoarthritis with an associated small suprapatellar effusion.

In a September 5, 2011 report, Dr. Magdiel Mayo Urdaz, a treating physician and orthopedic sports medicine specialist, noted that appellant was scheduled for right knee arthroscopic surgery on September 16, 2011. He advised that appellant had right knee swelling and locking right shoulder pain. Appellant had mechanical locking in the knee with decreased range of motion in the shoulder. He diagnosed right meniscal tear, rotator cuff tear, meniscal tear and rotator cuff tear. Dr. Urdaz also recommended a right shoulder steroid injection.

In a September 6, 2011 statement, appellant noted that, during the month of March, he began to feel pain around his right shoulder. His position required the use of his right arm by typing on the keyboard or when he needed to lift patients, most of whom were incapacitated. Appellant moved patients from their wheelchairs to the MRI scan table, from patient stretchers to the MRI scan stretchers and then to the machine table and vice-versa. His work required "repetitively sitting, standing, walking, bending, pushing and lifting multiple accessories and 'coils' constantly. Some of these coils, used for each patient, weighed close to 30 pounds." Appellant explained that these activities were necessary to perform the diversity of MRI scan studies, and that he saw approximately 30 patients every day, for five or six days every week for 25 years in MRI scan and 3 years in computerized automated tomography (CAT) scan and x-ray. He indicated that he felt aching sensation in the right shoulder joint and an inability to move, when lifting his arm or lifting moderate to heavy objects accompanied with swelling and bruising. Appellant further explained that the pain in his right knee began in February.

In a September 6, 2011 physician's report form, Dr. Urdaz indicated that appellant was capable of working eight hours per day with restrictions from September 6 through December 6, 2011. He diagnosed right knee medial tear and right rotator cuff tear.

On October 11, 2011 OWCP received additional statements from appellant and photographs of the machines utilized to accomplish his work duties. Appellant reiterated his duties as a diagnostic radiologist technician over the past 28 years.

OWCP also received an MRI scan of the right knee from Dr. Jorge Gago, a Board-certified diagnostic radiologist, who determined that appellant had a torn degenerated medial meniscus of the anterior horn and body, a complex tear of the posterior horn, a medial displacement of meniscus tissue, high grade chondromalacia medial femoral condyle and tibial plateau with subchondral edema and subchondral cysts. Dr. Gago noted that appellant had an unremarkable lateral meniscus and lateral tibiofemoral cartilage within normal limits. He indicated that appellant had mild partial thickness cartilage loss at the medial patellar articular facet and no focal cartilage defect. Dr. Gago advised that appellant's anterior and posterior cruciate ligaments, medial and lateral collateral ligaments, quadriceps and patellar tendons were normal.

In a September 12, 2011 statement, Juan Vega, appellant's supervisor, confirmed that appellant worked for the employing establishment since 1988. Appellant's duties included frequently transferring patients from their wheelchairs to the MRI scan machines and stretchers. Mr. Vega indicated that the position required heavy lifting, walking and long hours in front of the computer monitor and keyboarding system.

In a December 13, 2011 report, Dr. Urdaz noted that he was treating appellant for his right knee meniscal tear for which he underwent arthroscopic surgery on September 16, 2011. He noted that appellant had a medial meniscal tear with "associated probable traumatic arthritis versus degenerative." Dr. Urdaz opined that this could be attributed to constant trauma while working with lifting heavy materials and constant bending and standing up. He indicated that appellant would need a total knee replacement in the future and provided light-duty work restrictions.

By decision dated January 3, 2012, OWCP denied appellant's claim. It found that the medical evidence did not establish that the claimed medical conditions were related to the accepted work-related activities. OWCP also noted that, while appellant claimed a right arm condition, the medical evidence generally pertained to a right knee condition.

LEGAL PRECEDENT

An employee seeking benefits under FECA has the burden of establishing the essential elements of his or her 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 within the applicable time limitation period of FECA, that an injury was sustained in the performance of duty as alleged and that any disability and/or specific condition for which compensation is claimed are causally related to the employment injury.[3] These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.[4]

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) a factual

[3] *Joe D. Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

[4] *Victor J. Woodhams*, 41 ECAB 345 (1989).

statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the employment factors identified by the claimant were the proximate cause of the condition for which compensation is claimed or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant. The medical evidence required to establish causal relationship, generally, is rationalized medical opinion evidence. 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.[5]

ANALYSIS

The evidence establishes that appellant engaged in activities that included using his right arm by typing on a keyboard, as well as lifting patients back and forth from the stretchers and wheelchairs to the machinery utilized in his duties as a diagnostic radiologic technologist. However, appellant submitted insufficient medical evidence to establish that his right knee or right arm or shoulder condition was caused or aggravated by these activities or any other specific factors of his federal employment.

Appellant submitted several reports from Dr. Urdaz dating from September 5 to December 13, 2011. In his September 5 and 6, 2011 reports, Dr. Urdaz indicated that appellant was scheduled for right knee arthroscopic surgery on September 16, 2011. He diagnosed right meniscal tear, rotator cuff tear, meniscal tear and rotator cuff tear. However, the Board notes that these reports do not specifically address whether any factors of appellant's employment caused his diagnosed condition.[6] Consequently, the Board finds that this evidence is insufficient to establish appellant's claim. In his December 13, 2011 report, Dr. Urdaz noted that he was treating appellant for his right knee meniscal tear for which he underwent arthroscopic surgery on September 16, 2011. He stated that appellant had a medial meniscal tear with associated probable traumatic or degenerative arthritis which was attributable to constant trauma while working with lifting heavy materials and constant bending and standing up. The Board notes that, while Dr. Urdaz linked appellant's knee condition to factors of his employment, the physician's report was insufficiently rationalized as he did not adequately explain the reasons why particular work factors caused or aggravated the diagnosed condition. Dr. Urdaz also did not address appellant's right arm condition in this report. As explained above, part of appellant's burden of proof includes the submission of rationalized medical opinion evidence establishing causal relationship. Here, Dr. Urdaz has not explained the reasons why particular work factors have caused or aggravated a particular diagnosed medical condition.

[5] *Id*.

[6] *K.W*., 59 ECAB 271 (2007) (medical evidence that does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship).

Appellant also provided several diagnostic reports to include: an August 1, 2011 MRI scan of the right shoulder from Dr. Acosta; an August 29, 2011 x-ray from Dr. Alonso-Dafauce, who diagnosed right shoulder peritendinosis calcarea and severe right knee degenerative osteoarthritis with an associated small suprapatellar effusion and an MRI scan of the right knee, read by Dr. Gago. However, these reports merely reported findings and did not contain an opinion regarding the cause of the reported condition.

The Board has held that the mere fact that a condition manifests itself during a period of employment does not raise an inference that there is a causal relationship between the two.[7] Neither the fact that the condition became apparent during a period of employment nor the belief that the condition was caused or aggravated by employment factors or incidents is sufficient to establish causal relationship.[8] Causal relationship must be substantiated by reasoned medical opinion evidence, which is appellant's responsibility to submit.

As there is no reasoned medical evidence explaining how appellant's employment duties caused or aggravated a medical condition involving his shoulder or knee, appellant has not met his burden of proof in establishing that he sustained a medical condition in the performance of duty causally related to factors of his employment.

On appeal, appellant generally disagrees with OWCP's findings and asserted that Dr. Urdaz's opinion was sufficient to establish his claim. However, as noted above, the medical evidence is insufficient to establish his claim. Appellant may submit evidence or argument with a written request for reconsideration 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 has not met his burden of proof to establish that he sustained an injury in the performance of duty causally related to factors of his federal employment.

[7] *See Joe T. Williams*, 44 ECAB 518, 521 (1993).

[8] *Id.*

ORDER

IT IS HEREBY ORDERED THAT the January 3, 2012 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: September 25, 2012
Washington, DC

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

Patricia Howard Fitzgerald, Judge
Employees' Compensation Appeals Board

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