



## **FACTUAL HISTORY**

On June 25, 2012 appellant, then a 50-year-old letter carrier, filed an occupational disease claim (Form CA-2) alleging that he sustained right hip and left elbow conditions due to factors of his federal employment, including standing, walking, bending, lifting, sitting and walking up and down stairs. He stated that he had previously submitted a traumatic injury claim which was denied by OWCP, but over time his condition worsened and he became unable to work.<sup>2</sup>

By letter dated July 16, 2012, OWCP requested additional factual and medical information from appellant. It allotted him 30 days to submit additional evidence and respond to its inquiries.

Subsequently, appellant submitted an August 6, 2012 narrative statement indicating that his duties included walking to deliver mail, standing to case mail, lifting inserts of flats, bending, lifting and loading his vehicle. He stated that he was not trying to circumvent a traumatic injury claim, but filed an occupational disease claim because he was unable to perform his full duties as they aggravated his conditions.

In reports dated August 12, 2011 through June 18, 2012, Dr. Robert S. Goldstein, a Board-certified orthopedic surgeon, diagnosed right greater trochanteric bursitis, right greater trochanteric ascites and left lateral epicondylitis. On August 12, 2011 he indicated that appellant fell down the steps at work in November 2010 and had a sharp pain in the right hip the day after the fall. On December 2, 2011 Dr. Goldstein reported that appellant continued to have right hip pain which fluctuated day-by-day. Appellant complained of lower back pain radiating to bilateral buttocks, more so in the right buttock going down the right leg and reported difficulty getting up from a chair. He also complained of left shoulder pain which woke him up at night. There was occasional neck pain and radiating pain going down the left arm. On June 18, 2012 Dr. Goldstein indicated that appellant worked on his feet all day and complained of lower back pain, left elbow pain when lifting objects and stabbing pain in the right hip which radiated down to the knee and the foot, especially when walking, bending, doing side movements and going up and down stairs.

By decision dated October 4, 2012, OWCP denied the claim on the basis that the medical evidence failed to establish a causal relationship between the diagnosed conditions and the implicated employment factors.

On October 24, 2012 appellant, through his attorney, requested reconsideration and submitted a September 14, 2012 report from Dr. Goldstein who reviewed appellant's medical history and reiterated his diagnoses. Dr. Goldstein opined that appellant's right hip injury was causally related to the accident that occurred when he fell down steps on November 23, 2010 and stated that he was not relating the left elbow problem to the same incident as it was not reported to him until much later in appellant's treatment. He opined that appellant was totally disabled for work as he was unable to: walk over three to four blocks without rest; lift or carry heavy

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<sup>2</sup> By decision dated January 11, 2011, OWCP denied appellant's claim for a traumatic injury under OWCP File No. xxxxxx444 on the basis that the evidence was insufficient to establish that the November 23, 2010 incident of him slipping as he descended the stairs occurred, as alleged.

loads due to radiating pain in his right hip area; and had difficulty loading a postal vehicle, bending and walking up and down stairs. Dr. Goldstein concluded that appellant did not have an aggravation or exacerbation of a preexisting condition in his left elbow or right hip area.

By decision dated January 28, 2013, OWCP denied medication of its October 4, 2012 decision.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA<sup>3</sup> 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 and that an injury<sup>4</sup> was sustained in the performance of duty. These are the essential elements of each compensation claim, regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.<sup>5</sup>

To establish that an injury was sustained in the performance of duty in a claim for an occupational disease claim, an employee must submit the following: (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.<sup>6</sup>

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical evidence. 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.<sup>7</sup>

### **ANALYSIS**

The Board finds that appellant did not meet his burden of proof to establish a claim that federal employment factors caused or aggravated his right hip and left elbow conditions. While appellant submitted a statement in which he identified the factors of employment that he believed caused the condition, in order to establish a claim that he sustained an employment-related

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<sup>3</sup> 5 U.S.C. §§ 8101-8193.

<sup>4</sup> OWCP regulations define an occupational disease or illness as a condition produced by the work environment over a period longer than a single workday or shift. 20 C.F.R. § 10.5(q).

<sup>5</sup> See *O.W.*, Docket No. 09-2110 (issued April 22, 2010); *Ellen L. Noble*, 55 ECAB 530 (2004).

<sup>6</sup> See *D.R.*, Docket No. 09-1723 (issued May 20, 2010). See *Roy L. Humphrey*, 57 ECAB 238, 241 (2005); *Ruby I. Fish*, 46 ECAB 276, 279 (1994); *Victor J. Woodhams*, 41 ECAB 345 (1989).

<sup>7</sup> See *O.W.*, *supra* note 5.

injury, he must also submit rationalized medical evidence which explains how his medical conditions were caused or aggravated by the implicated employment factors.<sup>8</sup>

In his reports, Dr. Goldstein diagnosed right greater trochanteric bursitis, right greater trochanteric ascites and left lateral epicondylitis. On August 12, 2011 he indicated that appellant fell down the steps at work in November 2010 and had a sharp pain in the right hip the day after the fall. On June 18, 2012 Dr. Goldstein indicated that appellant worked on his feet all day and complained of lower back pain, left elbow pain when lifting objects and stabbing pain in the right hip which radiated down to the knee and the foot, especially when walking, bending, doing side movements and going up and down stairs. On September 14, 2012 he opined that appellant's right hip injury was causally related to the accident that occurred when he fell down steps on November 23, 2010. Dr. Goldstein concluded that appellant did not have an aggravation or exacerbation of a preexisting condition in his left elbow or right hip area. He provided firm diagnoses and identified appellant's work duties. However, Dr. Goldstein failed to provide a rationalized opinion explaining how factors of appellant's federal employment, such as sitting, standing, walking, bending, lifting, loading a vehicle and walking up and down stairs, caused or aggravated his right hip and left elbow conditions. Lacking thorough medical rationale on the issue of causal relationship, his reports are insufficient to establish that appellant sustained an employment-related injury.

As appellant has not submitted any rationalized medical evidence to support his allegation that he sustained an injury causally related to the indicated employment factors, he failed to meet his burden of proof to establish a claim.

On appeal, counsel contends that appellant's performance of his full-time job duties for the period November 30, 2010 through June 15, 2012 led to an aggravation and exacerbation of a preexisting hip condition, which he sustained at work on November 23, 2010. OWCP has not accepted that appellant experienced an employment-related incident on November 23, 2010.<sup>9</sup> The Board has held that the mere fact that appellant's symptoms arise during a period of employment or produce symptoms revelatory of an underlying condition does not establish a causal relationship between appellant's condition and his employment factors.<sup>10</sup> For the reasons stated above, the Board finds the attorney's arguments are not substantiated.

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.

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<sup>8</sup> A.C., Docket No. 08-1453 (issued November 18, 2008); *Donald W. Wenzel*, 56 ECAB 390 (2005); *Leslie C. Moore*, 52 ECAB 132 (2000).

<sup>9</sup> See *supra* note 2.

<sup>10</sup> See *Richard B. Cissel*, 32 ECAB 1910, 1917 (1981); *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

**CONCLUSION**

The Board finds that appellant has not met his burden of proof to establish that he sustained right hip and left elbow conditions in the performance of duty causally related to factors of his federal employment.

**ORDER**

**IT IS HEREBY ORDERED THAT** the January 28, 2013 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: August 26, 2013  
Washington, DC

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

Patricia Howard Fitzgerald, Judge  
Employees' Compensation Appeals Board

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