



protrusion of the acetabulum in her left hip. She further alleged that in March 2010 she first realized that her condition was caused by constant wear and tear from providing care to patients while working over 25 years in the spinal cord injury unit at the employing establishment. Appellant stopped work on September 27, 2009.

In a September 14, 2010 medical report, Dr. George C. Brown, a Board-certified orthopedic surgeon, obtained a history that appellant sustained a right knee injury at work for which she underwent total knee replacement surgery in the spring of 2009. Appellant had increasing pain in her left hip on weight bearing and ambulation for the past several years. Dr. Brown listed findings on x-ray and physical examination. He diagnosed end stage osteoarthritis with protrusion acetabulum of the left hip. Dr. Brown stated that appellant believed that the compensatory gait she developed after her right knee injury was the cause of her left hip osteoarthritis.<sup>2</sup> He requested authorization to perform total left hip replacement.<sup>3</sup>

By letter dated October 6, 2010, OWCP advised appellant that the evidence submitted was insufficient to establish her claim. It addressed the factual and medical evidence she needed to submit to establish her claim. OWCP also requested that the employing establishment submit any medical evidence regarding treatment appellant received at its medical facility.

By letter dated October 18, 2010, the employing establishment controverted appellant's claim. It noted that she filed a prior claim under OWCP File No. xxxxxx021 and her attempt to expand acceptance of her claim to include left hip arthritis and left hip arthroplasty. The employing establishment further noted that OWCP, in a July 28, 2010 letter, denied authorization for left hip replacement based on a July 6, 2010 opinion of Dr. William D. Shea, a Board-certified orthopedic surgeon and OWCP's referral physician. It contended that the current claim under File No. xxxxxx275 was not compensable under FECA as it was repetitious of appellant's prior claim under File No. xxxxxx021 and, thus, she failed to offer any new and material medical evidence.

Also, on October 18, 2010 appellant stated that as a spinal cord injury nurse assistant for over 29 years she provided total patient care to quadriplegics and paraplegics which included but was not limited to bowel care, transfers, dressing, bathing and feeding the patients. She contended that these activities involved strenuous physical demands which included pulling, pushing and lifting on a daily basis throughout her entire tour of duty.

In a February 3, 2010 report, Dr. John W. Golberg, a Board-certified orthopedic surgeon, noted that appellant was recovering from right knee surgery. She was also treated by Dr. Arthur P. Carriere, a Board-certified orthopedic surgeon, for lumbar disease. Dr. Golberg advised that radiographic evidence showed significant degenerative changes and acetabular deformity in the left hip. He stated that hip arthroplasty was required as soon as possible due to

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<sup>2</sup> Appellant filed a prior claim for a September 1, 2007 right knee injury under File No. xxxxxx021 which OWCP accepted for degeneration of lumbar or lumbosacral intervertebral disc, right knee osteoarthrosis and medial meniscus tear. It authorized a February 1999 right knee arthroscopy and October 5, 2010 total right knee arthroplasty. OWCP denied appellant's request to expand her claim to include left hip osteoarthritis and total left hip replacement surgery. This claim is not before the Board on the present appeal.

<sup>3</sup> By letter dated July 28, 2010, OWCP denied authorization of the requested left hip surgery.

progressive and destructive changes in the joint. Dr. Golberg opined that this condition was probably substantially aggravated by appellant's recovery from right knee surgery. He concluded that her leg condition probably contributed to the worsening of her left hip condition, although it was not necessarily directly related as the only cause of her hip condition.

In an August 10, 2010 report, Bernard Hendriksen, a physician's assistant, advised that appellant had osteoarthritis in her left hip.

In a November 30, 2010 decision, OWCP denied appellant's occupational disease claim. It found that the medical evidence was insufficient to establish that her left hip condition was causally related to the established work duties.

On December 15, 2010 appellant requested an oral hearing before an OWCP hearing representative.

In an operative report, Dr. Brown indicated that appellant underwent total left hip reconstruction on October 20, 2010. In a May 18, 2011 report, he advised that she was doing nicely five months post total left hip replacement surgery. Dr. Brown noted appellant's belief that working many years on her feet contributed to the severe osteoarthritis in her left hip, which necessitated replacement in October 2010. He advised that she would remain off work for three months. Dr. Brown concluded that appellant had a genuine claim regarding the association of her employment with her past and present daily work activities.

In a June 22, 2011 decision, an OWCP hearing representative affirmed the November 30, 2010 decision. While the hearing representative found that OWCP did not specifically describe the work duties as factual, appellant failed to submit sufficient medical evidence establishing that her left hip condition was causally related to factors of her employment.

On November 21, 2011 appellant requested reconsideration.

In an August 22, 2011 report, Dr. Brown found that appellant was still doing nicely 10 months post total left hip replacement. She was walking without a limp and range of motion of the left hip was excellent with a flexion and extension arc of 100 degrees. Appellant's bilateral leg lengths were equal. X-rays of the left hip showed excellent position of prosthetic components. There was good apparent consolidation of the allograft material on the acetabular side. Dr. Brown noted that appellant worked on her feet on hard surfaces for many years. He opined that this work duty significantly contributed to the osteoarthritis process in her left hip and thus, concluded that the left total hip replacement should be compensable.

In a December 21, 2011 report, Dr. Carriere noted appellant's complaint of lower back pain and buttock pain bilaterally. He listed physical examination findings and diagnosed lumbosacral degenerative disc disease with stenosis. Dr. Carriere stated that this was an old work-related problem. He concluded that appellant remained totally unemployable.

In an April 25, 2012 decision, OWCP denied modification of the June 22, 2011 decision. It found that appellant failed to submit rationalized medical evidence establishing a causal relationship between her left hip condition and the established work duties.

## LEGAL PRECEDENT

An employee seeking benefits under FECA<sup>4</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 filed within the applicable time limitation; that an injury was sustained while 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.<sup>5</sup> These are the essential elements of each and every compensation claim regardless of whether the claim is predicated on a traumatic injury or an occupational disease.<sup>6</sup>

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 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 a causal relationship is rationalized medical opinion evidence. The opinion of the physician must be based on a complete factual and medical background of the employee, must be one of reasonable 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> Neither the fact that appellant's condition became apparent during a period of employment nor, her belief that the condition was caused by her employment is sufficient to establish a causal relationship.<sup>8</sup>

## ANALYSIS

OWCP accepted that appellant performed the work duties of a spinal cord injury health technician, as alleged. The Board finds, however, that the medical evidence submitted is insufficient to establish that her left hip condition was caused or aggravated by her work-related duties.

While Dr. Brown's May 18 and August 22, 2011 reports found that working on hard surfaces for many years significantly contributed to appellant's left hip osteoarthritis for which she underwent total hip replacement on October 20, 2010, he failed to provide a sufficiently rationalized medical opinion explaining how the established work duties caused or contributed to the diagnosed condition and resultant surgery. Dr. Brown's September 14, 2010 report found

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<sup>4</sup> 5 U.S.C. §§ 8101-8193.

<sup>5</sup> C.S., Docket No. 08-1585 (issued March 3, 2009); *Elaine Pendleton*, 40 ECAB 1143 (1989).

<sup>6</sup> *S.P.*, 59 ECAB 184 (2007); *Victor J. Woodhams*, 41 ECAB 345 (1989); *Joe D. Cameron*, 41 ECAB 153 (1989).

<sup>7</sup> *I. J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, *id.* at 351-52.

<sup>8</sup> *Kathryn Haggerty*, 45 ECAB 383, 389 (1994).

that appellant had osteoarthritis with protrusion acetabulum of the left hip. However, he did not provide a basis for his conclusions relative to his opinion addressing whether the established work duties would cause or contribute to the diagnosed left hip condition. Medical evidence, which does not offer any opinion regarding the cause of an employee's condition, is of limited probative value.<sup>9</sup> Appellant expressed her belief that her left hip condition was caused by the work-related right knee injury for which she underwent total knee replacement in the spring of 2009.<sup>10</sup> As noted, the Board has held that a claimant's belief that her condition was caused by her employment is insufficient to establish causal relationship.<sup>11</sup> For the stated reasons, the Board finds that Dr. Brown's reports are insufficient to establish appellant's claim.

Dr. Golberg's February 3, 2010 report found that significant degenerative changes in appellant's left hip were "probably" substantially aggravated by her recovery from right knee surgery although the leg condition was not necessarily the only cause of her hip condition. He advised that hip arthroplasty was required due to this condition. Dr. Golberg's opinion regarding causal relationship is speculative in nature and unsupported by rationalized medical evidence explaining the cause of appellant's left hip condition and need for surgery.<sup>12</sup> A mere conclusion without the necessary rationale explaining how and why the physician believes that a claimant's accepted exposure could result in a diagnosed condition is not sufficient to meet a claimant's burden of proof.<sup>13</sup> For the stated reasons, the Board finds that Dr. Golberg's report is insufficient to establish appellant's claim.

Dr. Carriere's December 21, 2011 report found that appellant had lumbosacral degenerative disc disease with stenosis and she remained totally unemployable. He noted that the diagnosed condition was an old work-related problem. Dr. Carriere did not provide an opinion addressing the relevant issue of whether the established work duties caused or contributed to appellant's claimed left hip condition.<sup>14</sup> Further, he did not provide an opinion addressing whether or how the established work duties would cause or contribute to appellant's lumbar condition and resultant disability.<sup>15</sup> The Board finds that Dr. Carriere's report is insufficient to meet appellant's burden of proof.

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<sup>9</sup> *A.D.*, 58 ECAB 149 (2006); *Jaja K. Asaramo*, 55 ECAB 200 (2004); *Michael E. Smith*, 50 ECAB 313 (1999).

<sup>10</sup> As noted in footnote 2, appellant's claim for a left hip condition as a consequence of her accepted right knee condition under OWCP File No. xxxxxx021 was denied by OWCP and is not on appeal before the Board.

<sup>11</sup> *Kathryn Haggerty*, *supra* note 8.

<sup>12</sup> *Leslie C. Moore*, 52 ECAB 132 (2000).

<sup>13</sup> *Beverly A. Spencer*, 55 ECAB 501 (2004).

<sup>14</sup> *See* cases cited, *supra* note 9.

<sup>15</sup> *Id.*

The report from Mr. Hendriksen, a physician's assistant, has no probative value in establishing that appellant sustained an injury due to the established work duties because a physician's assistant is not considered a physician as defined under FECA.<sup>16</sup>

The Board finds that there is insufficient rationalized medical evidence of record to establish that appellant sustained a left hip condition causally related to the accepted employment factors. Appellant did not meet 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 has failed to establish that appellant sustained a left hip injury causally related to the accepted factors of her federal employment.

### **ORDER**

**IT IS HEREBY ORDERED THAT** the April 25, 2012 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: January 28, 2013  
Washington, DC

Patricia Howard Fitzgerald, Judge  
Employees' Compensation Appeals Board

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

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

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<sup>16</sup> *George H. Clark*, 56 ECAB 162 (2004).