

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

I.K., Appellant

and

**DEPARTMENT OF DEFENSE, DEFENSE
LOGISTICS AGENCIES, Fort Belvoir, VA,
Employer**

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**Docket No. 13-1252
Issued: September 3, 2013**

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

Case Submitted on the Record

DECISION AND ORDER

Before:

COLLEEN DUFFY KIKO, Judge
ALEC J. KOROMILAS, Alternate Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On May 2, 2013 appellant filed a timely appeal of a January 25, 2013 Office of Workers' Compensation Programs' (OWCP) merit decision which denied his traumatic injury claim. Pursuant to the Federal Employees' Compensation Act¹ (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction to consider the merits of the case.

ISSUE

The issue is whether appellant has met his burden of proof in establishing that he sustained a traumatic injury in the performance of duty on December 6, 2011, as alleged.

FACTUAL HISTORY

On April 18, 2012 appellant, then a 62-year-old supervisory transportation specialist, filed a traumatic injury claim alleging that he twisted his left leg going up steps in the

¹ 5 U.S.C. § 8101 *et seq.*

performance of duty at 10:00 a.m. on December 6, 2011. He noted that his left leg was already hurting at the time of his employment incident.

Appellant's attending physician, Dr. Mark Knable, an osteopath, completed a form report on January 11, 2012 and stated that he first examined appellant on December 9, 2011. He diagnosed left hip avascular necrosis. Dr. Knable indicated with a checkmark "yes" that appellant's condition was caused or aggravated by employment activity and stated appellant's postoperative right total hip replacement gave left hip increased weight bearing. Appellant underwent left hip arthroplasty on December 27, 2011.

In a letter dated May 3, 2012, OWCP requested additional factual and medical evidence from appellant.

By decision dated June 14, 2012, OWCP denied appellant's traumatic injury claim finding that he had not submitted sufficient factual evidence to establish that the employment incident occurred as alleged.

Appellant requested reconsideration on June 28, 2012 and stated that on December 6, 2011 he was making his rounds at work on the floor of building 276 when he slipped and twisted his leg walking up the steps of the wood working section. He stated that he fell to his knees and landed on his side. A coworker helped appellant to his office and to the dispensary. Appellant could not schedule an appointment with Dr. Knable until December 9, 2011.

Appellant submitted a signed statement from Raymond Williams dated June 29, 2012. Mr. Williams stated that he witnessed appellant's employment incident on December 6, 2011 and that appellant was going up steps, slipped and twisted his leg. He stated that he helped appellant to his office and to the dispensary where appellant was directed to go see his doctor.

In a report dated June 12, 2012, Dr. Knable stated that appellant provided a history of left hip pain after twisting his left leg at work on December 6, 2011. He found avascular necrosis of his left hip which was more than likely present prior to the injury. Dr. Knable stated that appellant's injury was an aggravation of a preexisting condition. He found abnormal gait because of hip pain, diffuse left hip tenderness and decreased range of motion of his left hip. Dr. Knable stated that a magnetic resonance imaging (MRI) confirmed avascular necrosis. He performed a left total hip arthroplasty.

By decision dated October 1, 2012, OWCP denied modification of the June 14, 2012 decision denying appellant's traumatic injury claim. It stated that Dr. Knable did not explain the cause of appellant's left hip necrosis and the relationship between this condition and appellant's employment activity.

Appellant requested reconsideration on October 25, 2012. On July 11, 2011 Dr. Knable diagnosed right hip pain and diagnosed bilateral avascular necrosis of the femoral heads. In a note dated December 9, 2011, he stated that appellant had complaints of left hip pain for three weeks with increasing severity. Dr. Knable noted that an MRI scan demonstrated avascular necrosis with early subchondral collapse. He stated that appellant had no new medical problems or changes in his history. Dr. Knable further stated that appellant had no evidence of an acute osseous injury or lytic lesion.

Appellant's December 2011 hospital records indicate that he had left hip pain without a traumatic injury increasing over three to four weeks. Dr. Knable diagnosed avascular necrosis of the left hip and performed a total hip arthroplasty on December 27, 2011.

By decision dated January 25, 2013, OWCP denied modification of the June 14, 2012 decision and found that appellant had not submitted the necessary medical evidence to establish a causal relationship between his employment incident and his diagnosed hip condition.

LEGAL PRECEDENT

An employee seeking benefits under FECA² has the burden of establishing the essential elements of his or her claim by the weight of the reliable, probative and substantial evidence, including the fact that the individual is an "employee of the United States" within the meaning of FECA and 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 or specific condition for which compensation is claimed is 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

OWCP defines a traumatic injury as, "[A] condition of the body caused by a specific event or incident, or series of events or incidents, within a single workday or shift. Such condition must be caused by external force, including stress or strain which is identifiable as to time and place of occurrence and member or function of the body affected."⁵ To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it must first be determined whether a "fact of injury" has been established. First the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time, place and in the manner alleged by a preponderance of the reliable, probative and substantial evidence.⁶ Secondly, the employee must submit sufficient evidence, generally only in the form a medical evidence, to establish that the employment incident caused a personal injury.⁷ A medical report is of limited probative value on a given medical question if it is unsupported by medical rationale.⁸ Medical rationale includes a physician's reasoned opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment activity. The opinion of the physician must be based on a complete factual and medical background of the claim, must be one of reasonable medical certainty, and must be supported by medical reasoning explaining the nature of the relationship

² 5 U.S.C. §§ 8101-8193.

³ *Kathryn Haggerty*, 45 ECAB 383, 388 (1994); *Elaine Pendleton*, 41 ECAB 1143 (1989).

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

⁵ 20 C.F.R. § 10.5(ee).

⁶ *John J. Carlone*, 41 ECAB 354 (1989).

⁷ *J.Z.*, 58 ECAB 529 (2007).

⁸ *T.F.*, 58 ECAB 128 (2006).

between the diagnosed condition and specific employment activity or factors identified by the claimant.⁹

ANALYSIS

OWCP accepted that appellant had an employment incident on December 6, 2011. It further found that appellant submitted medical evidence of avascular necrosis of the left hip. The Board finds, however, that appellant has not submitted sufficient medical opinion evidence to establish a causal relationship between the employment incident and his diagnosed condition.

In support of his claim, appellant submitted a series of reports from Dr. Knable beginning on July 11, 2011 which diagnosed bilateral avascular necrosis of the femoral heads. In December 9, 2011, Dr. Knable stated that appellant had complaints of left hip pain for three weeks with increasing severity. He stated that appellant had no new medical problems or changes in his history. Dr. Knable further stated that appellant had no evidence of an acute osseous injury or lytic lesion. These reports do not describe appellant's December 6, 2011 slip and fall and do not support a causal relationship between his employment incident and his diagnosed condition.

Dr. Knable diagnosed left hip avascular necrosis on January 11, 2012 and indicated with a checkmark "yes" that appellant's condition was caused or aggravated by employment activity. He attributed appellant's left hip condition to his right total hip replacement due to increased weight bearing. The Board has held that an opinion on causal relationship which consists only of a physician checking "yes" to a medical form report question on whether the claimant's condition was related to the history given is of little probative value. Without any explanation or rationale for the conclusion reached, such report is insufficient to establish causal relationship.¹⁰ Furthermore, Dr. Knable did not attribute appellant's left hip condition to his employment incident, but suggested an occupational injury.¹¹

It was not until June 12, 2012 that Dr. Knable stated that appellant provided a history of left hip pain after twisting his left leg at work on December 6, 2011. He stated that appellant's injury was an aggravation of a preexisting condition. While Dr. Knable provided an opinion that appellant's accepted employment incident aggravated his preexisting left hip condition, he did not provide medical rationale explaining how the twisting injury aggravated the underlying condition of avascular necrosis of the left hip. Due to this deficiency this report is not sufficient to meet appellant's burden of proof.

Appellant has not submitted the necessary medical opinion evidence to establish a causal relationship between his December 6, 2011 employment incident and his diagnosed condition of avascular necrosis of the left hip which resulted in left hip replacement. Due to the lack of

⁹ A.D., 58 ECAB 149 (2006).

¹⁰ *Lucrecia M. Nielson*, 41 ECAB 583, 594 (1991).

¹¹ If appellant believes that his left hip condition was caused or aggravated due to employment activities occurring over a period of more than one workday or work shift, he has the right to file a claim for occupational disease. 20 C.F.R. § 10.5(q).

medical evidence explaining how his employment incident caused or contributed to his underlying condition, appellant has failed to meet his burden of proof in establishing a traumatic injury claim.

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 failed to submit sufficient medical opinion evidence addressing causal relationship to establish his traumatic injury claim.

ORDER

IT IS HEREBY ORDERED THAT the January 25, 2013 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: September 3, 2013
Washington, DC

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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

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