

contained a new opinion regarding the cause of appellant's avascular necrosis of the right hip, hip replacement, back, shoulder and carpal tunnel conditions. The Board remanded the case for a merit decision on appellant's recurrence claim.² The facts of the case as set forth in the Board's prior decision are incorporated herein by reference.

Appellant's claims of traumatic injury a December 1, 2009 was accepted for a right hip strain sustained while moving mail hampers. She stopped work from December 3, 2009 to January 3, 2010 and returned to full-time regular duty on January 4, 2010.

Appellant stopped work on June 15, 2010 and did not return. On June 20, 2010 she filed a recurrence of disability claim alleging that her June 15, 2010 work stoppage was causally related to her December 1, 2009 work injury. Appellant submitted reports from Dr. Cunningham, a Board-certified orthopedic surgeon. On June 15, 2010 Dr. Cunningham noted her history of injury and diagnosed right hip avascular necrosis, stage four. He discussed continued conservative treatment and a total hip replacement with appellant. On June 25, 2010 Dr. Cunningham requested authorization for total hip replacement surgery. On August 30, 2010 OWCP also received a July 20, 2010 addendum report from Dr. Kimberly Atienza, an internist, who summarized appellant's treatment for right hip pain. Dr. Atienza concluded that, following June 14, 2010, appellant's hip pain recurred and she was no longer physically able to work.

By decision dated November 9, 2010, OWCP denied the recurrence claim. It found that the factual and medical evidence was insufficient to establish that the claimed recurrence resulted from the accepted work injury.

On November 15, 2010 appellant requested a hearing, which was held on March 31, 2011. She asserted that her avascular necrosis and right shoulder condition were due to her accepted hip injury. On June 5, 2011 appellant submitted additional reports from Dr. Cunningham. On August 10, 2010 Dr. Cunningham listed an impression of probable avascular necrosis with severe degenerative changes of the right hip. On September 9 and 23, 2010 he noted an impression of severe degenerative changes of the right hip, secondary to injury sustained on December 1, 2009. On November 4, 2010 Dr. Cunningham noted an impression of severe degenerative changes of the right hip, secondary to hip injury, including the sprain, which occurred on December 1, 2009 originally with a reinjury occurring on June 14, 2010, as previously described.

Records from the Bayshore Community Hospital dated January 19, 2011 state that appellant underwent surgery for a total right hip replacement on January 19, 2011. Appellant's postoperative diagnosis was stated as right hip osteoarthritis.

By decision dated June 28, 2011, an OWCP hearing representative affirmed the November 9, 2010 decision. The hearing representative found that appellant did not establish that her necrotic hip condition was currently related to the December 1, 2009 work incident. Further, the medical evidence was insufficient to support that the accepted hip strain caused her June 15, 2010 recurrence of disability.

² Docket No. 12-1830 (issued May 23, 2013).

On October 3, 2011 appellant's attorney requested reconsideration of the June 28, 2011 OWCP decision. He argued that Dr. Cunningham provided medical rationale to establish that the recurrence of injury beginning June 14, 2010 and appellant's subsequent right hip replacement surgery were directly related to the December 1, 2009 work injury. Counsel contended that her right shoulder condition was also a result of her hip replacement surgery and rehabilitation. In a March 15, 2011 report, Dr. Cunningham listed diagnoses of status post total right hip replacement, bilateral shoulder impingement and possible early mild right carpal tunnel symptoms. On April 26, 2011 he noted an impression of status post right total hip replacement with some intermittent pain. Dr. Cunningham repeated the hip and shoulder diagnoses on May 10 and June 14, 2011.

In a narrative report dated October 10, 2011, Dr. Cunningham explained that he had treated appellant for her right hip injury since June 15, 2010. An x-ray evaluation performed in his office revealed severe degenerative changes of the right hip, consistent with avascular necrosis, stage four. Dr. Cunningham also reviewed an x-ray from the date of injury, December 1, 2009, which revealed some mild irregularity of the femoral head. This was consistent with an early collapse of the articular surface and attributable to early avascular necrosis. Based upon the radiographic findings, appellant's accepted injury resulted in a severe exacerbation of a previously undiagnosed underlying condition, avascular necrosis of the right hip, which necessitated the right hip replacement surgery.

By decision dated January 5, 2012, OWCP denied modification of the June 28, 2011 decision.

Appellant, through counsel, requested reconsideration on May 25, 2012. Counsel argued that Dr. Cunningham's report supported the causal relationship between her right hip condition and the resulting surgery and her December 1, 1999 work injury. In January 5, 2012 report, Dr. Cunningham related appellant's diagnoses as status post right hip replacement, chronic low back pain, rule out carpal tunnel syndrome and status post old right shoulder arthroscopy with recurrent impingement symptoms. On May 17, 2012 he noted that he first saw appellant on June 15, 2010 for complaints of right hip pain. Dr. Cunningham related that he performed x-rays on that date, which revealed stage-four avascular necrosis with severe degenerative changes. He noted the history of appellant's December 1, 2009 work injury and stated that the x-rays taken on the date of injury revealed mild irregularity of the femoral head consistent with the earliest stages of avascular necrosis. Dr. Cunningham performed a total right hip replacement surgery on January 19, 2011. He addressed appellant's progress postoperatively, including bilateral shoulder pain and a mild flare of carpal tunnel syndrome as a result of walker usage related to the surgery. Dr. Cunningham diagnosed avascular necrosis of the right hip, with right hip strain; low back pain with right radiculopathy; carpal tunnel syndrome of the right wrist and right shoulder impingement syndrome. He opined that the work-related right hip strain exacerbated appellant's previous underlying hip pathology of avascular necrosis and worsened her hip degeneration which caused a recurrence of disability. Dr. Cunningham opined that her low back pain, with right radiculopathy, was related to the work injury as a consequence of the stress from gait alteration, as a result of the injury and subsequent hip problems. He opined that the carpal tunnel syndrome and right shoulder impingement syndrome, while preexisting, were also causally related to the injury as a result of stress due to chronic usage of assistive walking devices that were needed because of the altered gait resulting from the hip injury.

By decision dated August 23, 2012, OWCP denied appellant's request for reconsideration.

On remand additional treatment records reports from Dr. Cunningham dated February 15, 2011 through September 6, 2012 were submitted to the record.

By decision dated October 7, 2013, OWCP denied modification of its January 5, 2012 decision.

LEGAL PRECEDENT

An individual who claims a recurrence of disability due to an accepted employment-related injury has the burden of establishing by the weight of the substantial, reliable and probative evidence that the disability for which compensation is claimed is causally related to the accepted injury.³ This burden includes the necessity of furnishing medical evidence from a physician who, on the basis of a complete and accurate factual and medical history, concludes that the disabling condition is causally related to the employment injury and supports that conclusion with sound medical rationale.⁴ Where no such rationale is present, medical evidence is of diminished probative value.⁵

ANALYSIS

OWCP accepted that on December 1, 2009 appellant sustained a right hip sprain when she applied pressure to her right leg to get the mail hamper cart into the "tight" set up and felt a pulling, tearing feeling at the hip/groin area over her right leg. Appellant filed a claim alleging that she sustained a recurrence of disability on June 15, 2010 due to her December 1, 2009 work injury. Specifically, she is asserting that right hip avascular necrosis with resultant total right hip replacement and other conditions such as right shoulder and right carpal tunnel conditions, which resulted from her altered gait were causally related to the December 1, 2009 work injury.

The Board finds that appellant did not meet her burden of proof to submit medical evidence establishing a recurrence of disability. None of the medical evidence submitted by her contains a rationalized opinion on causal relationship.

In the July 20, 2010 report, Dr. Atienza noted appellant's treatment for hip pain and concluded that she could no longer work due to hip pain which recurred June 14, 2010. However, she did not offer a firm diagnosis or any medical rationale as to why appellant's hip pain recurred or whether it was causally related to the December 1, 2009 work injury.

³ *Charles H. Tomaszewski*, 39 ECAB 461, 467 (1988); *Dominic M. DeScala*, 37 ECAB 369, 372 (1986). Under 20 C.F.R. § 10.5(x), a recurrence of disability is defined, in part, as an inability to work after an employee has returned to work, caused by a spontaneous change in a medical condition which had resulted from a previous injury or illness without an intervening injury or new exposure to the work environment that caused the illness.

⁴ *Mary S. Brock*, 40 ECAB 461, 471-72 (1989); *Nicolea Bruso*, 33 ECAB 1138, 1140 (1982).

⁵ *Michael Stockert*, 39 ECAB 1186, 1187-88 (1988).

Several reports were received from Dr. Cunningham, who diagnosed right hip avascular necrosis for which appellant eventually underwent total right hip replacement. He also noted several other medical conditions. However, in the majority of his reports, Dr. Cunningham did not offer an opinion regarding the cause of the avascular necrosis or the other medical conditions.⁶ In his October 10, 2011 report, he stated that an x-ray from the date of injury, December 1, 2009, revealed some mild irregularity of the femoral head, which was consistent with an early collapse of the articular surface, consistent with early avascular necrosis. Based on the radiographic finding, Dr. Cunningham concluded that appellant's accepted injury resulted in a severe exacerbation of a previously undiagnosed underlying condition, avascular necrosis of the right hip, which necessitated the right hip replacement. He, however, failed to provide a well-reasoned explanation as to how avascular necrosis of the right hip was aggravated by the December 1, 2009 employment incident and whether and how the accepted right hip sprain caused the claimed June 15, 2010 recurrence of disability. Medical conclusions unsupported by rationale are of little probative value.⁷

In his May 17, 2012 report, Dr. Cunningham again related that the x-rays taken on the date of injury revealed mild irregularity of the femoral head consistent with the earliest stages of avascular necrosis. He opined that the work-related right hip strain exacerbated appellant's previous underlying hip pathology of avascular necrosis of the right hip and that the worsening of her hip degeneration caused the recurrence of disability. Dr. Cunningham opined that her low back pain, with right radiculopathy, was related to the work injury as a consequence of the stress from gait alteration, as a result of the injury and subsequent hip problems. He also opined that the carpal tunnel syndrome and right shoulder impingement syndrome, while preexisting, was also related to the injury as a result of stress due to chronic usage of assistive walking devices that were needed because of the altered gait as a result of the hip injury. However, Dr. Cunningham's opinions lack sufficient medical rationale as no explanation is provided why appellant's hip pathology was exacerbated by the December 1, 2009 employment injury. He merely states that the underlying hip pathology of avascular necrosis of the right hip was undiagnosed and was exacerbated with no medical explanation as to how or why this occurred was not provided. Medical conclusions unsupported by rationale are of little probative value.⁸

The evidence is insufficient to establish that the avascular necrosis and hip replacement are causally related to the employment injury.⁹

On appeal, appellant, through counsel, argues that Dr. Cunningham's medical reports establish that her preexisting undiagnosed avascular necrosis condition was exacerbated at the time of injury which resulted in a hip replacement and other medical conditions. However, the

⁶ *Michael E. Smith*, 50 ECAB 313 (1999) (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).

⁷ *Willa M. Frazier*, 55 ECAB 379, 384 (2004).

⁸ *See M.W.*, 57 ECAB 710 (2006).

⁹ Other diagnosed conditions of right carpal tunnel syndrome and right shoulder impingement have not been adjudicated by OWCP and are not presently before the Board.

medical evidence did not contain either a firm diagnosis or a rationalized explanation as to how the accepted incident caused or aggravated the avascular necrosis condition.

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 did not meet her burden of proof to establish that she sustained a recurrence of disability on or after June 15, 2010 due to her December 1, 2009 work injury.

ORDER

IT IS HEREBY ORDERED THAT the October 7, 2013 decision of the Office of Workers' Compensation Programs affirmed.

Issued: July 9, 2014
Washington, DC

Patricia Howard Fitzgerald, Acting Chief Judge
Employees Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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