

FACTUAL HISTORY

This case was previously before the Board.² Appellant, a 50-year-old letter carrier, filed an occupational disease claim (Form CA-2) alleging that he sustained a right hip and left elbow condition due to factors of his federal employment, including sitting, standing, walking, bending, lifting, loading vehicles, and climbing stairs. He had also previously filed a traumatic injury claim which was denied by OWCP in a decision dated January 11, 2011 under File No. xxxxxx444.³

In decisions dated October 4, 2012 and January 28, 2013, OWCP found that the evidence appellant submitted was insufficient to establish that he sustained an injury causally related to factors of his federal employment. By decision dated August 26, 2013, the Board affirmed OWCP's January 28, 2013 decision denying appellant's occupational disease claim. The facts of the case, as set forth in the prior decision, are incorporated herein by reference.

On August 11, 2014 appellant, through counsel, requested reconsideration and submitted additional medical evidence. In a May 28, 2014 report, Dr. Thomas Youm, a Board-certified orthopedic surgeon, reported that while appellant was working on November 23, 2010 he slipped and fell down the stairs and injured his right hip. He reviewed appellant's medical history and diagnosed gluteus medius tear, labral tear, and internal derangement of the right hip. Dr. Youm indicated that he had performed appellant's right hip arthroscopic surgery on April 18, 2013. In a July 24, 2014 addendum report, he opined that "the fall on November 23, 2010 caused an injury to his right hip" and this condition was further aggravated by his federal duties, which included walking while delivering the mail, going up and down stairs to carry the mail, lifting, bending, and loading vehicles. Dr. Youm stated that appellant's "right hip injury became progressively more symptomatic as he continued to perform his repetitive hard work" for the employing establishment. Appellant had to stop working on June 15, 2012 because of the increased pain in his right hip and it was later revealed in a magnetic resonance imaging (MRI) scan that the cause of his pain was a labral tear.

By decision dated November 26, 2014, OWCP reviewed the claim on the merits and found that the medical evidence failed to establish a causal relationship between appellant's conditions and factors of his federal employment. Consequently, it denied modification of the prior decision.

LEGAL PRECEDENT

An employee seeking benefits under FECA⁴ 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

² Docket No. 13-1114 (issued August 26, 2013).

³ In its January 11, 2011 decision, OWCP denied appellant's traumatic injury claim finding the factual evidence was insufficient to establish that a November 23, 2010 incident, where he slipped and fell down stairs, occurred as alleged.

⁴ 5 U.S.C. § 8101 *et seq.*

limitation period of FECA, and that an injury⁵ 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.⁶

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.⁷

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.⁸

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish an injury causally related to factors of his federal employment. While appellant identified the factors of employment that he believed caused the condition, in order to establish a claim that he sustained an employment-related injury, he must also submit rationalized medical evidence which explains how his medical condition was caused or aggravated by the implicated employment factors.⁹

In his May 28, 2014 report, Dr. Youm stated that while appellant was working on November 23, 2010 he slipped and fell down the stairs and injured his right hip. He diagnosed gluteus medius tear, labral tear, and internal derangement of the right hip and performed arthroscopic surgery on April 18, 2013. In a July 24, 2014 addendum report, Dr. Youm opined that “the fall on November 23, 2010 caused an injury to [appellant’s] right hip” and this condition was further aggravated by his federal duties, which included walking while delivering the mail, going up and down stairs to carry the mail, lifting, bending, and loading vehicles. He stated that appellant’s “right hip injury became progressively more symptomatic as he continued to perform his repetitive hard work” for the employing establishment. Dr. Youm provided firm

⁵ 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).

⁶ See *O.W.*, Docket No. 09-2110 (issued April 22, 2010); *Ellen L. Noble*, 55 ECAB 530 (2004).

⁷ See *D.R.*, Docket No. 09-1723 (issued May 20, 2010). See also *Roy L. Humphrey*, 57 ECAB 238, 241 (2005); *Ruby I. Fish*, 46 ECAB 276, 279 (1994); *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁸ See *O.W.*, *supra* note 6.

⁹ See *A.C.*, Docket No. 08-1453 (issued November 18, 2008); *Donald W. Wenzel*, 56 ECAB 390 (2005); *Leslie C. Moore*, 52 ECAB 132 (2000).

diagnoses and identified appellant's work duties. However, he failed to provide a rationalized opinion explaining how factors of appellant's federal employment, such as sitting, standing, walking, bending, lifting, loading vehicles, and climbing stairs, caused or aggravated his right hip condition. Lacking thorough medical rationale on the issue of causal relationship, Dr. Youm's reports are insufficient to establish that appellant sustained an employment-related injury.

Moreover, the Board finds that Dr. Youm's reports are not based on an accurate history of appellant's right hip condition. Dr. Youm stated that appellant slipped and fell down the stairs on November 23, 2010 and injured his right hip. However, OWCP has not accepted that appellant experienced an employment-related incident on November 23, 2010.¹⁰ The Board has held that the mere fact that appellant's symptoms arose 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.¹¹ Thus, the Board finds that Dr. Youm failed to provide a rationalized medical opinion on causal relationship. Consequently, appellant failed to establish that his claimed right hip condition is causally related to his federal employment and OWCP properly denied his claim for compensation.¹²

On appeal counsel contends that nothing within OWCP's decision negates the evidence or argument submitted with appellant's request for reconsideration. Based on the findings and reasons stated above, the Board finds counsel'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.

CONCLUSION

The Board finds that appellant has not met his burden of proof to establish an injury causally related to factors of his federal employment.

¹⁰ See *supra* note 3.

¹¹ See *Richard B. Cissel*, 32 ECAB 1910, 1917 (1981); *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

¹² See *T.D.*, Docket No. 12-0103 (issued June 6, 2012).

ORDER

IT IS HEREBY ORDERED THAT the November 26, 2014 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: August 18, 2015
Washington, DC

Christopher J. Godfrey, Chief Judge
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Deputy Chief Judge
Employees' Compensation Appeals Board

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