

Employees' Compensation Act³ (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

ISSUE

The issue is whether appellant has met his burden of proof to establish a hernia injury in the performance of duty as alleged.

FACTUAL HISTORY

On April 23, 2014 appellant, then a 48-year-old mail handler, filed a traumatic injury claim (Form CA-1) alleging that on March 26, 2014, while lifting a box, he felt a tear in his groin area. He stopped work on April 22, 2014. T.M., appellant's supervisor, noted that his knowledge of the matter agreed with appellant's statement.

Appellant was treated by Dr. Dominick Condo, a Board-certified internist, on April 23, 2014 for bilateral hernias. Dr. Condo noted a surgical consultation was pending and appellant was incapacitated from work.

On April 30, 2014 the employing establishment controverted the claim indicating that appellant alleged that on March 26, 2014, while lifting a box, he felt a tear in his groin area but he did not report his injury that day as he continued to work his regular job through April 16, 2014, nor did he file a Form CA-1 until April 23, 2016.

By letter dated May 13, 2014, OWCP advised appellant that his claim was originally received as a simple, uncontroverted case which resulted in minimal or no time loss from work. It indicated that appellant's claim was administratively handled to allow limited medical payments, but the merits of the claim had not been formally adjudicated. OWCP advised that, because the employing establishment controverted the claim, it would be formally adjudicated. It requested that appellant submit additional information including a factual statement describing the claimed injury and a medical report explaining how the reported work incident contributed to a medical condition.

In a statement dated May 22, 2014, appellant indicated that he did not report his injury until April 23, 2014 because his physician was on vacation and the first available appointment was April 23, 2014. He reported a burning feeling in the groin injury and then reported the injury to his supervisor. Appellant indicated that the hernias hurt with prolonged work without rest. He did not experience similar symptoms or disability prior to this injury.

Appellant was treated by Dr. Zbigniew Moszczynski, a Board-certified general surgeon, on May 1, 2014, for painful bilateral inguinal masses. His complaints started after an accident at work in March 2014 when he was lifting heavy objects and noted the development of pain and a bulge in the groin. Dr. Moszczynski noted findings on examination of a large hernia in both left and right groin compatible with left and right symptomatic inguinal hernias. He diagnosed symptomatic, dramatic left and right inguinal hernia's which developed after lifting heavy

³ 5 U.S.C. § 8101 *et seq.*

objects at work. Dr. Moszczynski opined that this was “most likely” due to excessive lifting at work and subsequent rupture of inguinal canal floor. He indicated that due to the size of the hernias each hernia should be repaired separately. In a disability certificate dated May 1, 2014, Dr. Moszczynski advised that appellant was totally incapacitated beginning April 23, 2014. In a report dated May 22, 2014, he requested authorization for surgery for the bilateral inguinal hernias.

In a June 17, 2014 decision, OWCP denied appellant’s claim because he failed to establish that he sustained a medical condition causally related to the accepted work events.

On June 26, 2014 appellant requested a review of the written record by an OWCP hearing representative. He submitted a June 17, 2014 attending physician’s report from Dr. Moszczynski, who noted that appellant reported sustaining left and right groin bulges after lifting heavy objects at work in March 2014. Dr. Moszczynski diagnosed bilateral inguinal hernias. He indicated by checking a box marked “yes” on a form report that appellant’s condition was caused or aggravated by an employment activity, noting that excessive lifting at work caused a rupture of the inguinal canal floor. Dr. Moszczynski indicated that appellant was totally disabled beginning May 1, 2014. On June 25, 2014 he indicated that appellant denied having any prior problems before the incident and developed pain, discomfort, and bilateral groin bulge right after the work incident. Dr. Moszczynski opined that the development of inguinal hernias noted on examination was directly related to appellant’s work. In an October 15, 2014 work capacity evaluation, he diagnosed bilateral inguinal hernias and indicated that appellant was restricted from pushing, pulling, lifting, and prolonged standing. Dr. Moszczynski returned appellant to work full time with restrictions. On November 10, 2014 he noted that appellant presented on May 1, 2014 complaining of painful large bulges in both groins. Appellant reported that when he was lifting heavy objects at work on March 26, 2014 he immediately developed bilateral groin pain and bulges. He denied having any prior problems. On examination appellant was found to have large bilateral inguinal hernias. Dr. Moszczynski opined that, based on appellant’s description of the incident occurring on March 26, 2014, this incident probably was the cause of the hernias. He further opined that appellant could not perform job duties requiring prolonged standing or lifting heavy objects and was totally disabled from regular work duties.

By decision dated January 22, 2015, an OWCP hearing representative affirmed the June 17, 2014 decision. She found, however, that appellant failed to establish that the employment incident occurred as alleged.

On February 10, 2016 appellant, through counsel, requested reconsideration. Counsel noted that OWCP previously accepted the work incident in the June 17, 2014 decision but, in the January 22, 2015 decision, OWCP found that the incident was not established. He asserted that the evidence of record supported that the claimed incident occurred as alleged and that the medical evidence supported that this incident caused bilateral inguinal hernias.

In a March 26, 2014 statement, appellant indicated that he bent down to pick up a stack on machine number 15 and stood up and felt a burning feeling above his groin. He noted that it was the same feeling he had with a prior hernia at his belly button. Appellant indicated that he was in pain for one and a half hours and rested for 15 minutes and the pain ceased.

Appellant submitted a routing slip dated March 26, 2014 addressed to T.M. and S.G. and indicated that he declined medical attention because the burning sensation and pain stopped and he did not want to file a Form CA-1.

An April 23, 2014 report from Dr. Condo noted appellant presented with right groin pain. Appellant reported hurting himself at work. Dr. Condo noted findings on examination of bilateral inguinal hernia and diagnosed hernia. He referred appellant for a surgical consultation.

Appellant submitted witness statements dated November 13, 2015 from R.R. and D.S., coworkers, who noted that on March 26, 2014 they were performing their mail handler's duties of lifting letter trays to the skid when appellant indicated experiencing a burning sensation in his groin area and immediately informed their supervisor, T.M., of the injury. R.R. and D.S. indicated that an accident report was completed and appellant rested 15 minutes and then returned to work. Appellant reported that he was unable to get an appointment with his physician until April 23, 2014.

By decision dated April 13, 2016, OWCP denied modification of the decision dated January 22, 2015.

LEGAL PRECEDENT

An employee seeking benefits under FECA has the burden of proof to establish 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 of FECA, that an injury was sustained in the performance of duty as alleged, and that any disability and/or specific condition for which compensation is claimed is causally related to the employment injury. 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

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it first must be determined whether fact of injury has been established. There are two components involved in establishing fact of injury. First, the employee must submit sufficient evidence to establish that he actually experienced the employment incident at the time, place, and in the manner alleged. Second, the employee must submit medical evidence to establish that the employment incident caused a personal injury.⁵

An employee's statement that an injury occurred at a given time and in a given manner is of great probative value and will stand unless refuted by strong or persuasive evidence.⁶ Moreover, an injury does not have to be confirmed by eyewitnesses. The employee's statement, however, must be consistent with the surrounding facts and circumstances and his subsequent course of action. An employee has not met his or her burden in establishing the occurrence of an injury when there are such inconsistencies in the evidence as to cast serious doubt upon the

⁴ *Gary J. Watling*, 52 ECAB 357 (2001).

⁵ *T.H.*, 59 ECAB 388 (2008).

⁶ *R.T.*, Docket No. 08-408 (issued December 16, 2008); *Gregory J. Reser*, 57 ECAB 277 (2005).

validity of the claim. Circumstances such as late notification of injury, lack of confirmation of injury, continuing to work without apparent difficulty following the alleged injury, and failure to obtain medical treatment may, if otherwise unexplained, cast doubt on an employee's statement in determining whether a *prima facie* case has been established.⁷

Rationalized medical opinion evidence is generally required to establish causal relationship. The opinion of the physician must be based on a complete factual and medical background, 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 claimant.⁸

ANALYSIS

OWCP denied appellant's claim finding that he failed to establish that the events occurred as alleged. The Board finds that the evidence supports that appellant's duties as a mail handler involved lifting boxes while performing his work duties. There is no dispute that appellant was actually doing the job of a mail handler during the work shift during which he alleges an injury. Specifically, in a statement from T.M., appellant's supervisor, he noted that his knowledge of the matter agreed with appellant's statement. Appellant submitted witness statements dated November 13, 2015 from mail handlers R.R. and D.S. who noted that on March 26, 2014 they were lifting letter trays to the skid when appellant indicated experiencing a burning sensation in his groin area and immediately informed their supervisor, T.M., of the injury. Similarly, in a routing slip dated March 26, 2014 addressed to T.M. and S.G., he indicated that he had declined medical attention because the burning sensation and pain stopped and he did not want to file a Form CA-1. Appellant further explained his delay in filing his claim noting that he did not report his injury until April 23, 2014 because his physician was on vacation and the first available appointment was April 23, 2014. The Board finds that the evidence of record establishes that on March 26, 2014 appellant was performing his work duties as a mail handler which included lifting boxes. The Board further finds, however, that there is insufficient medical evidence in the record to establish that his work duties performed on March 26, 2014 caused or aggravated the diagnosed condition.

In a May 1, 2014 report, Dr. Moszczynski treated appellant for painful bilateral inguinal masses. Appellant reported lifting heavy objects in March and developing pain and a bulge in the groin. Dr. Moszczynski diagnosed symptomatic, dramatic left and right inguinal hernias which developed after lifting heavy objects at work. He opined that this was "most likely" due to excessive lifting at work and subsequent rupture of inguinal canal floor. On June 25, 2014 Dr. Moszczynski indicated that appellant denied having problems prior to the work incident. He opined that the development of inguinal hernias was directly related to his work as appellant developed pain, discomfort, and bilateral groin bulge right after the work incident. In a June 17, 2014 attending physician's report, Dr. Moszczynski noted that appellant reported left and right groin bulges after lifting heavy objects at work in March 2014. He diagnosed bilateral inguinal hernias and checked a form box marked "yes" to indicate that appellant's condition was caused

⁷ *Betty J. Smith*, 54 ECAB 174 (2002); *L.D.*, Docket No. 16-0199 (issued March 8, 2016).

⁸ *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 345 (1989).

or aggravated by a work activity noting that excessive lifting at work caused a rupture of inguinal canal floor. On November 10, 2014 Dr. Moszczynski diagnosed large bilateral inguinal hernias noting that appellant reported lifting heavy objects at work on March 26, 2014 and immediately began having bilateral groin pain and bulges. He opined that, based on appellant's description of the March 26, 2014 incident this incident, probably was the cause of the hernias.

These reports provide some support for causal relationship, but contain insufficient medical rationale to establish the claimed bilateral inguinal hernias were causally related to appellant's employment duties. In opining that the hernias were most likely or probably work related, Dr. Moszczynski, at best, provides speculative support for causal relationship. Medical opinions that are speculative or equivocal in character are of diminished probative value.⁹ Dr. Moszczynski also supported causal relationship on the basis that appellant had no prior problems before the claimed work injury. However, the Board has held that an opinion that a condition is causally related to an employment injury because the employee was asymptomatic before the injury is insufficient, without supporting rationale, to support a causal relationship.¹⁰ Likewise, the Board has held that an opinion on causal relationship which consists only of a physician checking "yes" to a medical form is of little probative value without any explanation or rationale for the conclusion reached.¹¹ None of these reports provide sufficient detailed medical reasoning to explain how lifting a box at work on March 26, 2014 caused or contributed to the claimed hernia condition. Thus, the evidence from Dr. Moszczynski is insufficient to meet appellant's burden of proof.

On April 23, 2014 Dr. Condo noted that appellant presented with right groin pain and reported hurting himself at work. He diagnosed bilateral hernias and advised that appellant was incapacitated from work. However, Dr. Condo repeated the history of injury as reported by appellant without providing his own opinion regarding whether appellant's condition was work related. A mere conclusory opinion provided by a physician without the necessary rationale explaining how and why the incident or work factors were sufficient to result in the diagnosed medical condition is insufficient to meet a claimant's burden of proof to establish a claim.¹² Dr. Condo provided no medical reasoning or rationale to support his opinion on causal relationship. Therefore, this report is insufficient to meet appellant's burden of proof.

Other medical evidence of record is also of limited probative value as it does not specifically address whether appellant's work activity on March 26, 2014 had caused or aggravated a diagnosed medical condition.¹³

⁹ *D.D.*, 57 ECAB 734 (2006).

¹⁰ *Kimper Lee*, 45 ECAB 565 (1994).

¹¹ The Board has held that when a physician's opinion on causal relationship consists only of checking "yes" to a form question, without explanation or rationale, that opinion is of diminished probative value and is insufficient to establish a claim. *Sedi L. Graham*, 57 ECAB 494 (2006); *D.D.*, *supra* note 9.

¹² *J.D.*, Docket No. 14-2061 (issued February 27, 2015).

¹³ *A.D.*, 58 ECAB 149 (2006) (medical evidence which does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship).

An award of compensation may not be based on surmise, conjecture or speculation. Neither the fact that appellant's condition became apparent during a period of employment nor the belief that his condition was caused, precipitated or aggravated by his employment is sufficient to establish causal relationship. Causal relationships must be established by rationalized medical opinion evidence.¹⁴ Appellant failed to submit such evidence, and OWCP therefore properly denied appellant's claim for compensation.

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 his burden of proof to establish a hernia injury causally related to a March 26, 2014 work incident.

ORDER

IT IS HEREBY ORDERED THAT the April 13, 2016 decision of the Office of Workers' Compensation Programs is affirmed as modified.

Issued: April 13, 2017
Washington, DC

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

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

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board

¹⁴ See *Dennis M. Mascarenas*, 49 ECAB 215 (1997).