United States Department of Labor
Employees' Compensation Appeals Board

Y.R., Appellant	)	
and	)	**Docket No. 17-1521**
	)	**Issued: December 28, 2017**
U.S. POSTAL SERVICE, POST OFFICE, Blue Springs, MO, Employer	)	

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

Case Submitted on the Record

DECISION AND ORDER

Before:
CHRISTOPHER J. GODFREY, Chief Judge
PATRICIA H. FITZGERALD, Deputy Chief Judge
ALEC J. KOROMILAS, Alternate Judge

JURISDICTION

On July 3, 2017 appellant filed a timely appeal from a June 6, 2017 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act[1] (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 met her burden of proof to establish right hip osteoarthritis causally related to the accepted factors of her federal employment.

On appeal appellant asserts that the medical evidence submitted is sufficient to establish that daily job duties for 29 years aggravated her hip condition.

[1] 5 U.S.C. § 8101 *et seq.*

FACTUAL HISTORY

On September 9, 2016 appellant, then a 59-year-old city letter carrier, filed an occupational disease claim (Form CA-2) alleging that her regular job duties of twisting, turning, walking, and lifting heavy boxes aggravated bilateral degenerative joint disease of the hips and lower back. The employing establishment indicated that appellant stopped work on September 9, 2016.

In support of her claim, appellant submitted a July 22, 2016 report in which Dr. Todd A. Stastny, a family physician, diagnosed low back pain, spondylosis of L5 on S1, left hip degenerative joint disease and pain, bilateral leg pain and spasticity, right hip degenerative joint disease and groin pain, generalized osteoarthritis and pain, fibromyalgia syndrome, restless leg syndrome, and idiopathic bilateral lower extremity neuropathy by electrodiagnostic (EMG) study. On August 12, 2016 Dr. Gerald Dugan, a Board-certified orthopedic surgeon, noted that appellant was scheduled for a right total hip arthroplasty on September 13, 2016. He indicated that appellant's job may cause irritation of both hips and recommended that she be allowed to sit periodically.

By letter dated September 19, 2016, OWCP informed appellant of the evidence needed to support her claim. This was to include a medical explanation from her physician as to how work activities caused, contributed to, or aggravated her condition. In a separate September 19, 2016 letter, OWCP asked that the employing establishment provide a copy of appellant's position description and the physical requirements of appellant's job.

In a statement dated October 10, 2016, appellant indicated that in June 2015 she began seeing her primary care doctor for leg, hip, and lower back pain, and he referred her to an orthopedic surgeon. She stated that she had a very heavy workload in November and December 2015, and that she underwent right hip total replacement surgery on September 13, 2016. Appellant also noted that she had a prior accepted claim, adjudicated by OWCP under File No. xxxxxx067, for a groin injury that occurred when she fell off a porch while delivering mail in April 2016.[2]

In an October 17, 2016 letter, the employing establishment indicated that a city letter carrier had physical requirements of lifting 30 pounds intermittently, pushing and pulling with force 5 pounds for 30 minutes, bending and stooping intermittently for 30 minutes, walking intermittently for 4 hours, sitting intermittently for 5 hours, standing intermittently for 2 hours, and carrying 30 pounds intermittently for 4 hours. A city carrier position description was attached.

Medical evidence submitted included a December 9, 2015 report in which Dr. Leslie A. Michaud, Board-certified in family and sports medicine, performed ultrasound-guided right hip corticosteroid injection for right hip osteoarthritis. On December 13, 2016 Dr. Michaud noted appellant's complaints of right hip, bilateral knee, and back pain, which was made worse by walking. Following examination, she diagnosed bilateral knee primary osteoarthritis. On

[2] The instant claim was adjudicated by OWCP under File No. xxxxxx435. Claim number xxxxxx067 is not presently before the Board.

March 16, 2016 Dr. Michaud again performed a second ultrasound-guided right hip corticosteroid injection for right hip osteoarthritis.

Fluoroscopy-guided needle placement by Dr. Scott I. Sher, a Board-certified radiologist, on April 20, 2016 demonstrated severe right hip joint degenerative changes. A right hip magnetic resonance imaging (MRI) scan done by Dr. Sher that day showed moderate right hip joint degenerative changes, no muscle or tendon abnormality, no evidence of bursitis, and postsurgical changes at L5-S1. A left hip MRI scan done by Dr. Sher on April 29, 2015 demonstrated postsurgical changes at L5-S1, mild degenerative changes, and no identifiable abnormalities in the left hip region.

In a June 9, 2016 treatment note, Dr. Michaud described appellant's continued complaint of right hip pain secondary to osteoarthritis. She noted that appellant could be a candidate for total hip arthroplasty. On June 29, 2016 Dr. Michaud performed ultrasound-guided left hip corticosteroid injection for left hip osteoarthritis.

Dr. Terrence Pratt, a Board-certified physiatrist, saw appellant on July 12, 2016 for a history of progressive hip discomfort, right greater than left. Appellant also had some lower extremity symptoms that she attributed to lower back involvement. Dr. Pratt indicated that appellant reported that the symptoms were exacerbated with standing, walking, and casing mail. He described physical examination findings and his review of the MRI scans, noting moderate degenerative changes on the right and mild degenerative changes on the left with postoperative changes at L5-S1. Dr. Pratt's diagnoses included hip pain and hip degenerative joint disease. He recommended orthopedic consultation.

On July 25, 2016 Dr. Dugan noted a two-year history of bilateral hip pain, greater on the right, which had been refractory to conservative measures. Examination showed an antalgic gait and decreased right hip range of motion. Hip x-rays that day revealed degenerative changes on the left and right, and lumbar spine surgical changes. Dr. Dugan diagnosed history of low back pain, previous back surgery, gait dysfunction, and degenerative joint disease of both hips, right greater than left. Appellant elected to proceed with right total hip arthroplasty.

On September 13, 2016 Dr. Dugan performed right total hip arthroplasty. Dr. Reggie Voboril, a Board-certified internist, saw appellant in postoperative consultation on September 14, 2016. She noted a history of lumbar laminectomy and indicated that appellant was seen for pain management and deep venous thrombosis prophylaxis.

Dr. Dugan saw appellant in follow-up on September 16 and 30, 2016. On September 30, 2016 he advised that appellant could return to modified duty on October 17, 2016.

In a December 14, 2016 decision, OWCP found that the medical evidence of record was insufficient to establish that a medical condition was causally related to appellant's work duties. In correspondence postmarked January 6, 2017, appellant requested an oral hearing or a review of the written record by OWCP's Branch of Hearings and Review.

Appellant provided an August 3, 2016 work status report in which Dr. Dugan noted that appellant was scheduled for a right total hip arthroplasty on September 13, 2016. Dr. Dugan

indicated that appellant's job may cause irritation of both hips and recommended that she be allowed to sit periodically.

In a handwritten December 29, 2016 progress note, Dr. Stastny referred to a July 6, 2016 treatment note, indicating that it had supported causal relationship. He opined that appellant's repetitive job duties worsened her progressive hip arthritis such that she required a right hip replacement. Dr. Stastny further opined that her condition would not have escalated had she not delivered mail for 29 years.

By decision dated June 6, 2017, an OWCP hearing representative affirmed the December 14, 2016 decision. She noted that the medical record contained scant evidence that addressed causal relationship and found Dr. Stastny's opinion of insufficient rationale to meet appellant's burden of proof.

LEGAL PRECEDENT

An employee seeking benefits under FECA[3] 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, and that the claim was timely filed within the applicable time limitation period of FECA.[4] When an employee claims that he or she sustained an injury in the performance of duty,[5] he or she must submit sufficient evidence to establish that he or she experienced a specific event, incident, or exposure occurring at the time, place, and in the manner alleged.[6] The employee must also establish that such event, incident, or exposure caused an injury.[7] 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.[8]

OWCP regulations define the term "occupational disease or illness" as a condition produced by the work environment over a period longer than a single workday or shift."[9] 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 diagnosed condition is causally related to the employment factors identified by the claimant. The medical opinion must be one of reasonable medical certainty and must be supported by medical rationale

[3] *Supra* note 1.

[4] 5 U.S.C. § 8101(1); *L.M.*, Docket No. 16-0143 (issued February 19, 2016); *B.B.*, 59 ECAB 234 (2007).

[5] *Id*. at § 8102(a).

[6] *J.C.*, Docket No. 16-0057 (issued February 10, 2016); *E.A.*, 58 ECAB 677 (2007).

[7] *Id.*

[8] *R.H.*, 59 ECAB 382 (2008).

[9] 20 C.F.R. § 10.5(ee).

explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.[10]

Causal relationship is a medical issue, and the medical evidence required to establish causal relationship is rationalized medical evidence.[11] The opinion of the physician must be based on a complete factual and medical background of the claimant, 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.[12] Neither the mere fact that a disease or condition manifests itself during a period of employment nor the belief that the disease or condition was caused or aggravated by employment factors or incidents is sufficient to establish causal relationship.[13]

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish that bilateral hip osteoarthritis or any other diagnosed condition was causally related to factors of her federal employment.

The record is replete with medical evidence including MRI scans and reports from a number of doctors that confirm a diagnosis of bilateral hip degenerative osteoarthritis. None of these reports, however, are of sufficient probative value to establish that the diagnosed condition was caused or aggravated by appellant's federal employment duties.

The April 20 and 29, 2016 MRI scans of the right and left hip provided diagnostic insight; however, it did not provide a cause of any diagnosed conditions. 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.[14] Likewise, neither Dr. Michaud nor Dr. Pratt discussed the cause of the diagnosed arthritis. Thus, their reports are also insufficient to meet appellant's burden of proof.

In Dr. Dugan's reports dated August 3 and 12, 2016, he merely indicated that appellant's job could cause irritation of both hips. While the medical opinion of a physician supporting causal relationship does not have to reduce the cause or etiology of a disease or condition to an absolute certainty, neither can such opinion be speculative or equivocal. The opinion of a physician supporting causal relationship must be one of reasonable medical certainty that the condition for which compensation is claimed is causally related to federal employment and such relationship must be supported with affirmative evidence, explained by medical rationale, and be

[10] *Roy L. Humphrey*, 57 ECAB 238 (2005).

[11] *Jacqueline M. Nixon-Steward*, 52 ECAB 140 (2000).

[12] *Leslie C. Moore*, 52 ECAB 132 (2000); *Gary L. Fowler*, 45 ECAB 365 (1994).

[13] *Dennis M. Mascarenas*, 49 ECAB 215 (1997).

[14] *Willie M. Miller*, 53 ECAB 697 (2002).

based upon a complete and accurate medical and factual background of the claimant.[15] Dr. Dugan's reports lack sufficient specificity to meet appellant's burden of proof.

Dr. Stastny opined on December 29, 2016 that appellant's repetitive job duties worsened her progressive hip arthritis such that she required a right hip replacement. He further opined that this would not have escalated if she had not delivered mail for 29 years. Dr. Stastny, however, also referenced a July 6, 2016 treatment note indicating that it supported causal relationship. The July 6, 2016 treatment note is not found in the record before the Board. Moreover, 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.[16]

To establish causal relationship, a claimant must submit a physician's report in which the physician reviews the employment factors identified as causing the claimed condition and, taking these factors into consideration as well as findings upon examination, states whether the employment injury caused or aggravated the diagnosed conditions and presents medical rationale in support of his or her opinion.[17]

As none of the physicians of record provided a sufficient explanation regarding whether appellant's hip degenerative arthritis or other diagnosed condition was caused or aggravated by her letter carrier duties, she has not met 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 not met her burden of proof to establish right hip osteoarthritis causally related to factors of her federal employment.

[15] *Patricia J. Glenn*, 53 ECAB 159 (2001).

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

[17] *J.M.*, 58 ECAB 303 (2007).

ORDER

IT IS HEREBY ORDERED THAT the June 6, 2017 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: December 28, 2017
Washington, DC

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

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

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