



her federal employment on March 8, 2016. Appellant explained that she required a right hip replacement, which was scheduled for November 7, 2016. The employing establishment indicated that appellant had a mounted route.

On November 9, 2016 OWCP received an authorization request from Dr. Nikhil G. Pandhi, an orthopedic surgeon.<sup>2</sup> The date of injury was noted as March 8, 2016.

By development letter dated November 10, 2016, OWCP advised appellant of the deficiencies in her claim. Appellant was asked to provide additional factual evidence pertaining to her employment-related exposure. She was also asked to provide additional medical evidence from a qualified physician which contained a description of her medical history, the history of her employment exposure, and any nonemployment activities that may contribute to her condition. Appellant was further advised that the medical report should provide a medical explanation as to whether and how her work exposure caused or contributed to her diagnosed condition. OWCP afforded appellant 30 days to submit the requested information.

In response, OWCP received evidence from Dr. Pandhi. This included a copy of Dr. Pandhi's November 8, 2016 authorization request, which included a code for repair, revision, and/or reconstruction procedures on the right pelvis and hip joint.

In a March 21, 2016 report, Dr. Pandhi reported that appellant had severe right hip pain for two years with severe groin pain from sitting to standing in daily activities. He diagnosed severe right hip primary osteoarthritis and noted that a right total hip arthroplasty may be necessary. In an October 27, 2016 report, Dr. Pandhi reported that appellant presented for preoperative testing as she elected to undergo a right total hip arthroplasty.

In a November 15, 2016 attending physician's report (Form CA-20), Dr. Pandhi noted that appellant was first examined on March 8, 2016. The history was reported as "pain for two years. Denies specific injury. Letter carrier for 37 years. Walks 6 miles daily, stairs, and in/out of truck." Dr. Pandhi provided a diagnosis of advanced right hip osteoarthritis. He opined that the employment activities of years of walking on uneven grounds and up and down stairs on a daily basis contributed to appellant's progression of osteoarthritis. Dr. Pandhi noted that appellant underwent a hip injection on April 13, 2016, but needed a right total hip arthroplasty.

In a November 20, 2016 statement, appellant stated that she had slipped and fallen on ice in February 2016 and injured her right hip.<sup>3</sup> She noted that an x-ray was performed because of the fall and that the physician recommended a hip replacement. Appellant indicated that she chose to have an injection first instead of surgery, but the relief only lasted two months. She then stated that, as a result of her job duties of bending, lifting, walking up and down stairs in various weather conditions, and walking on unlevelled ground for 37 years, her excruciating pain had not gone away. Appellant indicated that she had been suffering for almost eight months. She stated that she would not be in this situation if not for her employment as a letter carrier for over 37 years.

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<sup>2</sup> The service for which authorization was requested was not indicated.

<sup>3</sup> There is no evidence that appellant filed a workers' compensation claim for this alleged incident.

By decision dated January 6, 2017, OWCP denied appellant's occupational disease claim. It found that she had not established fact of injury because she also related that she had slipped and fallen on ice in February 2016, which differed from the history provided to her physician.

Following the decision, OWCP received a January 23, 2017 Form CA-20 report from Dr. Pandhi. Dr. Pandhi indicated that appellant's pain began in February 2016. He opined that years of working on uneven ground and up and down stairs on a daily basis have contributed to appellant's progression of right hip osteoarthritis. Dr. Pandhi noted that right hip surgery was scheduled for March 18, 2017.

Incomplete x-ray reports of appellant's right hip dated February 26 and October 28, 2016 noted advanced/severe right hip osteoarthritis.

On January 23, 2017 appellant requested a review of the written record by a representative of OWCP's Branch of Hearings and Review. In a January 20, 2017 statement, she contended that her physician made a mistake in reporting that she had pain for two years. Appellant stated that her right hip pain began in February 2016 and that she went to an urgent care clinic and was referred to Dr. Pandhi. She asserted that this was a job-related injury due to her 37 years of letter carrier duties where she climbed up and down flights of stairs, walked on uneven ground, walked on ice and snow, and stepped up and down from a mail truck.

By decision dated June 21, 2017, an OWCP hearing representative set aside OWCP's January 6, 2017 decision as appellant's earlier slip and fall prior to filing her occupational disease claim was not a basis for denying fact of injury of the claim. The hearing representative remanded the case for further factual and medical development and the issuance of a *de novo* decision following completion of any further development deemed necessary.

In a July 6, 2017 development letter, OWCP requested additional factual and medical information from appellant, to include a statement which described how long each day she performed each of the work activities she claimed caused or contributed to her condition, how long she had the mounted route the employing establishment mentioned, and to provide further details about the circumstances of her February 2016 slip and fall. OWCP again afforded appellant 30 days to provide the requested evidence. No additional evidence was received.

By decision dated August 31, 2017, OWCP denied appellant's occupational disease claim, finding that the evidence of record was insufficient to establish that the events occurred as alleged. It noted that she failed to respond to its July 6, 2017 development letter.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA<sup>4</sup> 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 timely filed within the applicable time limitation period of FECA, that the injury was sustained while in the performance of duty as alleged, and that any disability or specific condition for which compensation is claimed is causally

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<sup>4</sup> *Id.*

related to the employment injury.<sup>5</sup> To establish fact of injury, an employee must submit evidence sufficient to establish that he or she experienced a specific event, incident, or exposure occurring at the time and place, and in the manner alleged.<sup>6</sup> An employee must submit medical evidence establishing that such event, incident, or exposure caused an injury.<sup>7</sup> 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.<sup>8</sup>

OWCP's regulations define the term "[o]ccupational disease or illness" as a condition produced by the work environment over a period longer than a single workday or shift.<sup>9</sup> To establish that an injury was sustained in the performance of duty in an occupational disease claim, an employee 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 employee.<sup>10</sup>

An employee has the burden of proof to establish the occurrence of an injury at the time and place, and in the manner alleged, by a preponderance of the reliable, probative, and substantial evidence.<sup>11</sup> 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.<sup>12</sup> 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 or her 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 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 case has been established.<sup>13</sup>

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<sup>5</sup> 5 U.S.C. § 8101(1); *B.B.*, 59 ECAB 234 (2007); *Elaine Pendleton*, 40 ECAB 1143 (1989).

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

<sup>7</sup> *Id.*

<sup>8</sup> *R.H.*, 59 ECAB 382 (2008); *Ellen L. Noble*, 55 ECAB 530 (2004).

<sup>9</sup> 20 C.F.R. § 10.5(q); *see also* Federal (FECA) Procedure Manual, Part 2 -- Claims, *Initial Development of Claims*, Chapter 2.800.2b (June 2011).

<sup>10</sup> *D.H.*, Docket No. 15-1876 (issued January 29, 2016); *D.I.*, 59 ECAB 158 (2007); *Victor J. Woodhams*, 41 ECAB 345 (1989).

<sup>11</sup> *William Sircovitch*, 38 ECAB 756, 761 (1987).

<sup>12</sup> *R.T.*, Docket No. 08-0408 (issued December 16, 2008); *Gregory J. Reser*, 57 ECAB 277 (2005).

<sup>13</sup> *Betty J. Smith*, 54 ECAB 174 (2002).

## ANALYSIS

The Board finds that appellant has not met her burden of proof to establish a right hip condition in the performance of her federal employment, as alleged.

Appellant filed an occupational disease claim and alleged that her right hip condition and need for total right hip replacement arose from her daily work duties as a letter carrier over the past 37 years. She subsequently attributed her work duties of climbing up and down flights of stairs, walking on uneven ground, walking on ice and snow, and stepping up and down in a mail truck for over 37 years as contributing to her claimed condition. Appellant also related that she injured her right hip when she slipped and fell on ice in February 2016. The employing establishment however indicated that she had a mounted route.

In a July 6, 2017 letter, OWCP advised appellant that she should submit additional factual and medical evidence to establish her claim. It requested that she describe how often she performed the employment-related activities she believed contributed to her condition. OWCP also asked her how long she had the mounted route and to provide further details about the circumstances of her February 2016 slip and fall. No additional evidence was received.

A statement describing the particular employment activities that caused or contributed to the claimed condition is crucial to appellant's claim. As noted, appellant's burden of proof includes the submission of a factual statement including the time, place, and manner of her injury. She has alleged in general terms that over 37 years of work activities, including walking and climbing stairs and climbing in and out of a vehicle, contributed to her right hip condition, but this mechanism of injury has been called into question as the employing establishment has indicated that appellant delivered a mounted route. Appellant has also attributed her right hip pain to a slip and fall event in February 2016. The Board notes that this implicates a specific incident, or traumatic event, as the cause of appellant's condition, not work factors that occurred over more than one work shift. It is therefore unclear whether appellant is actually claiming a traumatic injury instead of an occupational disease.<sup>14</sup> Appellant's general description of work factors and events required clarification which she did not provide. The Board finds that appellant's description of her job duties is generalized and vague in nature.<sup>15</sup> As she did not provide a factual statement

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<sup>14</sup> Under FECA, a traumatic injury is defined 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. 20 C.F.R. § 10.5(ee). An occupational disease is defined 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).

<sup>15</sup> See *P.T.*, Docket No. 14-0598 (issued August 5, 2014).

describing in detail the events that caused her to be aware of the claimed injury and when she began her mounted route, the Board finds that appellant has not met her burden of proof.<sup>16</sup>

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 that she sustained a right hip injury in the performance of duty, as alleged.

**ORDER**

**IT IS HEREBY ORDERED THAT** the June 21, 2017 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: August 21, 2018  
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

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<sup>16</sup> See *R.H.*, Docket No. 15-0508 (issued July 10, 2015).