United States Department of Labor
Employees' Compensation Appeals Board

P.M., Appellant	)	
and	)	**Docket No. 17-0026**
	)	**Issued: June 26, 2018**
U.S. POSTAL SERVICE, POST OFFICE, Southampton, NY, 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
ALEC J. KOROMILAS, Alternate Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On October 7, 2016 appellant filed a timely appeal of an April 22, 2016 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.[2]

ISSUE

The issue is whether appellant has met his burden of proof to establish a traumatic injury causally related to the accepted February 25, 2016 employment incident.

[1] 5 U.S.C. § 8101 *et seq.*

[2] The Board notes that appellant submitted additional evidence after OWCP rendered its April 22, 2016 decision. The Board's jurisdiction is limited to reviewing the evidence that was before OWCP at the time of its final decision. Therefore, the Board is precluded from reviewing the additional evidence for the first time on appeal. 20 C.F.R. § 501.2(c)(1).

FACTUAL HISTORY

On February 25, 2016 appellant, then a 35-year-old clerk, filed a traumatic injury claim (Form CA-1) alleging that on that date, while in the performance of duty, he was lifting a parcel and felt a pull in his groin. The employing establishment checked the box marked "yes" in response to whether their knowledge of the facts about the injury agreed with the statements of the employee. Appellant stopped work on February 26, 2016.

In a February 25, 2016 statement, appellant indicated that on February 25, 2016 he was breaking down mail and lifted a parcel, when he felt pain in his groin. He explained that, when the pain did not subside, he requested to see a physician.

OWCP received notes and prescriptions from a physician assistant dated February 25, 2016. The physician assistant indicated that appellant had restrictions for work including no bending or stooping, no lifting greater than five pounds, and no strenuous activity.

In a February 25, 2016 report, Dr. William Brancaccio, a Board-certified diagnostic radiologist, noted that appellant had abdominal pain just prior to his arrival. He advised that appellant was lifting a heavy package at work and felt a sudden sharp pain in the left groin. Dr. Brancaccio examined appellant and found no evidence of active cardiopulmonary disease.

In reports dated February 26, 2016, Dr. Richard J. Ricca, a Board-certified general surgeon, found a left thigh adductor muscle tear. He noted that appellant was leaning into a hamper and lifting a heavy parcel. Dr. Ricca placed appellant off work until further notice. He advised that appellant had exquisite pain and tenderness in the left adductor tendons, rule out tear. Dr. Ricca explained that a computerized tomography (CT) scan did not reveal a hernia and requested a magnetic resonance imaging (MRI) scan of the left thigh.

OWCP received nurses' notes dating from February 26 to March 8, 2016.

In a March 2, 2016 report, Dr. Ricca requested authorization for a left thigh MRI scan to rule out a tear of the left proximal adductor.

In a March 7, 2016 report, Dr. Ricca noted that appellant continued to have complaints of left medial thigh pain. He indicated that appellant had a possible adductor tendon injury and the MRI scan was not approved.

In a March 8, 2016 report, Dr. Henry Marano, a Board-certified orthopedic surgeon, noted that appellant presented with a complaint of sudden onset of hip pain. He referenced a February 25, 2015 incident at work in which appellant was bent over picking up a parcel when he stood up and immediately felt a pain in the left groin area which remained constant. Dr. Marano indicated that it hurt more while in use. He advised that the hip pain was caused by unusual activity at work since the hip pain started, it remained the same, and was sharp when active and aching. Dr. Marano further advised that the pain was worsened when going up and down stairs and walking a moderate amount. He noted that it was alleviated by modification of activity. Dr. Marano examined appellant and found an articular cartilage disorder of the left hip and hip impingement syndrome. He opined that appellant was fully disabled until further notice.

In a development letter dated March 15, 2016, OWCP advised appellant that his claim initially appeared to be a minor injury that resulted in little or no lost time. However, appellant's claim was being reopened as he had not returned to work in a full-time capacity. OWCP requested additional factual and medical evidence. It also requested a physician's opinion explaining how the reported work incident caused or contributed to appellant's condition.

In treatment notes and duty status reports (CA-17 forms) dated March 7 and 14, 2016, Dr. Ricca advised that appellant returned with pain in the left medial thigh, slightly improved. He noted that the request for the left thigh MRI scan was not approved. Dr. Ricca examined appellant and found tenderness localized to left adductor tendon. He ruled out avulsion left adductor muscle tendon. Dr. Ricca advised that it was an orthopedic problem and recommended follow up with an orthopedic physician. He placed appellant off work pending authorization.

In a March 16, 2016 work capacity evaluation, Dr. Ricca indicated that appellant was awaiting authorization for the MRI scan and that the case was still under review. He checked the box marked "yes" that appellant was able to work with restrictions.

In a March 17, 2016 report, Dr. Marano opined that appellant was fully disabled until further notice.

On March 18, 2016 OWCP received a February 25, 2016 CT scan of the pelvis read by Dr. Brancaccio. Dr. Brancaccio noted that appellant had left groin pain following trauma and evaluated him for a traumatic hernia. However, he found that the CT scan of the pelvis was unremarkable.

OWCP also received February 25, 2016 laboratory reports and notes from a physician assistant and a February 25, 2016 authorization for examination or treatment.

In a March 21, 2016 report, Dr. Ricca noted appellant's history and indicated that appellant had a resolving left adduction muscle pull. He recommended resuming moderate activities. Dr. Ricca completed a duty status report (Form CA-17) advising a return to work without limitations on March 22, 2016.

In a June 29, 2015 report, Dr. Richard A Legouri, a Board-certified orthopedic surgeon, noted that appellant presented with a complaint of back pain, the onset of which was gradual (lower back and left groin) which began with an increased running routine. He also indicated that it was occurring in a persistent pattern for three months. Dr. Legouri characterized the back pain as being located in the groin area and radiating to the left groin. He also explained that the pain was precipitated by heavy weight lifting (increased bending and lifting). Dr. Legouri also noted the symptoms were aggravated by exertion and prolonged standing and they were relieved by bending forward and squatting. He advised that appellant presented with multilevel foraminal compromise, L3-4 herniation with mild central stenosis, L4-4 broad based disc bulge with mild-to-moderate central stenosis, and L5-S1 broad herniation to the right. Dr. Legouri diagnosed degeneration of the lumbar/lumbosacral disc and osteoarthritis of the hip.

In a July 6, 2015 treatment note, Dr. Legouri diagnosed osteoarthritis of the hip, localized, primary and hip impingement syndrome. He also saw appellant on July 16 and 20, 2015 and

diagnosed hip impingement syndrome, osteoarthritis of the hip, and degeneration of the lumbar/lumbosacral disc.

On April 6, 2016 appellant contacted OWCP to advise them that he did not receive the development letter.

By letter dated April 7, 2016, OWCP advised appellant that the letter was mailed to the address of record. It also explained that a decision would be rendered 30 days from the date of the March 15, 2016 letter.

By decision dated April 22, 2016, OWCP denied appellant's claim finding that the medical evidence does not demonstrate that the claimed medical condition is related to the established work-related incident. It found that there was insufficient medical evidence addressing causal relationship.

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 timely filed within the applicable time limitation period of FECA,[3] that an injury was sustained in the performance of duty, and that any disability or specific condition for which compensation is claimed is causally related to the employment injury.[4] These are the essential elements of each compensation claim, regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.[5]

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 the fact of injury. First, the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time and place, and in the manner alleged.[6] In some traumatic injury cases, this component can be established by an employee's uncontroverted statement on the Form CA-1.[7] Second, the employee must submit sufficient evidence, generally only in the form of medical evidence, to establish that the employment incident caused a personal injury.[8]

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

[3] *Joe D. Cameron*, 41 ECAB 153 (1989).

[4] *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

[5] *Delores C. Ellyett*, 41 ECAB 992 (1990).

[6] *Julie B. Hawkins*, 38 ECAB 393, 396 (1987).

[7] *John J. Carlone*, 41 ECAB 354 (1989).

[8] *Id.* For a definition of the term "traumatic injury," *see* 20 C.F.R. § 10.5(ee).

rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.[9]

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish a traumatic injury causally related to the accepted February 25, 2016 employment injury.

In a February 25, 2016 report, Dr. Brancaccio noted that appellant had abdominal pain just prior to his arrival. He advised that appellant was lifting a heavy package at work and felt a sudden sharp pain in the left groin. However, Dr. Brancaccio did not provide a diagnosis. In the absence of a diagnosed condition and a reasoned opinion on causal relationship with the employment incident, the medical report is insufficient to meet appellant's burden of proof.[10]

In reports dated February 26 and March 7, 2016, Dr. Ricca found a left thigh adductor muscle tear and noted continued complaints of left medial thigh pain. He noted that appellant was leaning into a hamper and lifting a heavy parcel. However, Dr. Ricca did not offer an opinion on causal relationship. The Board has found that 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.[11]

In his treatment notes and a duty status reports dated March 7, 14, 16, and 21, 2016, Dr. Ricca advised that appellant returned with pain in the left medial thigh, slightly improved. He noted that he was awaiting authorization for a left thigh MRI scan to further evaluation. Dr. Ricca checked a box marked "yes" that appellant was able to work with restrictions. He recommended a return to work without limitations on March 22, 2016. However, as Dr. Ricca did not discuss the cause of appellant's pain, his report is of little probative value. Further, the Board has held that a diagnosis of "pain" does not constitute the basis for the payment of compensation.[12]

In a March 8, 2016 report, Dr. Marano noted that appellant presented with a complaint of hip problems with sudden onset. He referenced a February 25, 2015 incident at work, in which appellant was bent over picking up a parcel when he stood up immediately and felt a pain in the left groin area, which remained constant. Dr. Marano found an articular cartilage disorder of the left hip and hip impingement syndrome and opined that appellant was fully disabled until further notice. He repeated his opinion in a March 17, 2016 report. The medical reports of Dr. Marano contain no reasoned explanation of how the specific employment incident on February 25, 2016 caused or aggravated an injury.[13]

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

[10] *Deborah L. Beatty*, 54 ECAB 340 (2003).

[11] *R.E.*, Docket No. 10-0679 (issued November 16, 2010); *K.W.*, 59 ECAB 271 (2007).

[12] *John L. Clark*, 32 ECAB 1618 (1981).

In a June 29, 2015 report, Dr. Legouri noted that appellant presented with a complaint of back pain, the onset of which was gradual (lower back and left groin) which began with an increased running routine. He also indicated that it was occurring in a persistent pattern for three months. Dr. Legouri characterized the back pain as being located in the groin area and radiating to the left groin. He also explained that the pain was precipitated by heavy weight lifting (increased bending and lifting). Dr. Legouri also noted the symptoms were aggravated by exertion and prolonged standing and they were relieved by bending forward and squatting. He diagnosed degeneration of the lumbar/lumbosacral disc and osteoarthritis of the hip. The Board notes that Dr. Legouri attributed appellant's condition to several activities such as running, and weight lifting. However, Dr. Legouri did not offer any opinion as to the work-relatedness of the conditions.

In reports dated July 6, 16, and 20, 2015, Dr. Legouri diagnosed hip impingement syndrome, osteoarthritis of the hip, and degeneration of the lumbar/lumbosacral disc. These reports do not discuss the cause of appellant's conditions.[14]

Appellant also submitted diagnostic reports to include a February 25, 2016 CT scan of the pelvis read by Dr. Brancaccio. The Board has held that diagnostic studies are of limited probative value as they do not address whether the employment incident caused any of the diagnosed conditions.[15]

OWCP also received several physician assistants and nursing reports. However, lay individuals such as physician assistants, nurses, and physical therapists are not competent to render a medical opinion under FECA.[16]

Other reports are of limited probative value on the relevant issue of the present case in that they do not contain an accurate history and an opinion on causal relationship. An award of compensation may not be based on surmise, conjecture, speculation, or appellant's belief of causal relationship.[17] Appellant has failed to submit rationalized medical evidence to meet his burden of proof on causal relationship.

Because the medical reports submitted by appellant do not address how the February 25, 2016 incident at work caused or aggravated a groin condition, these reports are of limited probative

[14] *See supra* note 12.

[15] *See J.S.*, Docket No. 17-1039 (issued October 6, 2017).

[16] *See M.M.*, Docket No. 17-1641 (issued February 15, 2018); *K.J.*, Docket No. 16-1805 (issued February 23, 2018); *David P. Sawchuk*, 57 ECAB 316, 320 n.11 (2006) (lay individuals such as physician assistants, nurses and physical therapists are not competent to render a medical opinion under FECA); 5 U.S.C. § 8101(2) (this subsection defines a physician as surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, and osteopathic practitioners within the scope of their practice as defined by state law).

[17] *John D. Jackson*, 55 ECAB 465 (2004); *William Nimitz*¸ 30 ECAB 57 (1979).

value[18] and are insufficient to establish that the February 25, 2016 employment incident caused or aggravated a specific injury.

On appeal appellant argues that his injury occurred at work while he was safely performing his assigned duties. The Board has explained herein that his claim is denied as the medical evidence of record contains no reasoned explanation of how the specific employment incident on February 25, 2016 caused or aggravated his diagnosed medical conditions.

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 traumatic injury causally related to the accepted February 25, 2016 employment incident.

ORDER

IT IS HEREBY ORDERED THAT the April 22, 2016 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: June 26, 2018
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

[18] *See Linda I Sprague*, 48 ECAB 386, 389-90 (1997).