



that the acceptance of her claim should be expanded to include additional right hip conditions causally related to her accepted August 1, 2016 employment injury.

### **FACTUAL HISTORY**

On August 4, 2016 appellant, then a 74-year-old part-time sales and services distribution associate, filed a traumatic injury claim (Form CA-1) alleging that on August 1, 2016 she sustained injuries to her right shoulder, right hip, left arm, and head while in the performance of duty when she fell off a step ladder. She stopped work on August 1, 2016 and returned to her part-time job on August 4, 2016 working four hours per day six days per week until April 27, 2017.

OWCP accepted the claim for concussion without loss of consciousness, head contusion, scalp laceration, cervical strain of muscles and tendons, right shoulder contusion, and right hip contusion.

In an April 5, 2017 report, Dr. David L. Samani, an examining Board-certified orthopedic surgeon, noted that appellant was seen for right hip complaints following her August 1, 2016 fall. He noted that appellant continued to work and had not missed much work since the August 1, 2016 work injury. A physical examination of the right hip revealed some posterior gluteal region atrophy, tenderness with external and internal rotation and flexion, and mild positive straight leg sign. Dr. Samani diagnosed various conditions including muscle spasms, right hip pain, and cervical muscle pain. He recommended a magnetic resonance imaging (MRI) scan as he suspected appellant had piriformis syndrome.

Dr. Samani, in an April 5, 2017 duty status report (Form CA-17), diagnosed piriformis syndrome, which he attributed to the accepted August 1, 2016 work injury. He indicated that appellant could return to work on April 3, 2017.

An April 11, 2017 MRI scan of the right hip revealed irregular tearing and maceration of the posterosuperior right acetabular labrum with paralabral and intra-labral cystic change, focal chronic hematoma from a Morel Lavallee-type injury, and bursitis.

In an April 24, 2017 follow-up note, Dr. Samani reviewed the MRI scan, which he noted was significant for right hip regular tearing, maceration, posterior screw to acetabular labrum, adventitious bursitis, paralabral and intralabral cystic changes, six millimeters (MM) rounded loose body, and Morel Lavallee-type injury. A physical examination revealed right hip tenderness on the posterior and lateral aspects.

In a May 10, 2017 duty status report, Dr. Samani noted an injury date of August 1, 2016 and checked a box marked "no" to the question of whether appellant had been advised to resume work.

Dr. Samani, in a follow-up evaluation and report dated May 10, 2017, explained that as a result of the fall at work she sustained a contusion to the right hip and a cranium laceration. He noted that a right hip MRI scan showed irregular tearing and maceration of the right acetabular posterior superior aspect. Dr. Samani reported appellant also had a right gluteus maximum cyst, which he observed may be due to a chronic focal hematoma.

Appellant submitted claims for wage-loss compensation (Form CA-7) for the period April 27 to June 9, 2017.

In a May 23, 2017 development letter, OWCP informed appellant that the evidence of record was insufficient to establish her claim for compensation beginning April 27, 2017, noting that it appeared that she was claiming a recurrence of disability due to a material change/worsening of her accepted work-related conditions. It noted that she had been a part-time employee working four to five hours per day and that she claimed temporary total disability as of April 27, 2017. OWCP noted the accepted conditions and advised appellant regarding the medical evidence required to establish her claim. It afforded her 30 days to submit the requested evidence.

In a December 8, 2016 duty status report, Kelli Kodad, a physician assistant, indicated that appellant was capable of working four to five hours with restrictions and noted an August 1, 2016 injury date. Under diagnose(s) due to injury, she diagnosed persistent right hip pain, radiculopathy, low back pain, and probable right gluteal tear.

In duty status reports dated April 24, May 10, and June 7, 2017, Dr. Samani noted an August 1, 2016 injury date and checked a box marked "no" to the question of whether appellant was capable of working. On the April 24, 2017 form, he reported clinical findings of inflamed right hip labral tear.

In a June 14, 2017 statement, appellant indicated that she stopped work because her physician restricted her from lifting or rotating her hip and these restrictions prevented her from performing her job duties. She also related that prior to the accepted August 1, 2016 employment injury she had no right hip problems.

By decision dated June 30, 2017, OWCP denied appellant's claim for recurrent disability. It noted that she was a part-time worker who stopped work on April 27, 2017. OWCP determined that none of the medical evidence appellant submitted established an increased disability due to her accepted conditions or a change/worsening of the accepted conditions.

By decision dated July 5, 2017, OWCP denied appellant's request to expand the acceptance of her claim to include additional right hip conditions.

Subsequent to the June 30 and July 5, 2017 decisions, OWCP received additional medical evidence from Dr. Samani. Dr. Samani, on a June 5, 2017 correction to his April 24, 2017 office note, attributed appellant's posterosupral labral tear to the accepted August 1, 2016 employment injury. In a June 7, 2017 follow-up evaluation note, he provided examination findings and noted the injury history. Dr. Samani reported that appellant complained of significant right hip pain and discomfort when last seen on May 10, 2017. He diagnosed greater trochanteric bursitis, which he explained was consistent with appellant's complaints. Dr. Samani related that her right hip and right shoulder contusions had resolved and that he did not believe she had significant right hip arthritis.

In a June 29, 2017 duty status report, Dr. Samani advised that appellant was capable of returning to work on July 5, 2017.<sup>3</sup> He diagnosed right hip bursitis, which he attributed to the accepted August 1, 2016 employment injury.

On July 17, 2017 appellant requested reconsideration of the July 5, 2017 decision.

On July 20, 2017 OWCP received a July 12, 2017 duty status report from Dr. Benjamin R. Gelber, an examining Board-certified neurosurgeon, indicating that appellant was disabled from work. Dr. Gelber noted the date of injury as August 1, 2016 and diagnosed gluteal nerve injury, right C2 fracture, and positional vertigo.

On August 1, 2017 OWCP received a July 12, 2017 note from Dr. Gelber. He diagnosed neck pain, trapezius spasm, and greater occipital nerve headache.

OWCP received a July 12, 2017 report by Todd Sorensen, a certified physician assistant, diagnosing possible right C2 laminar fracture, possible right gluteal nerve injury, and neck pain with trapezius spasm and greater occipital nerve headaches after a fall. Under history of injury, Mr. Todd noted that appellant fell backwards off a stool at work in August 2016 and hit her head and right hip. Following the injury appellant temporarily went back to work before stopping in April 2017. Appellant stated that since the fall she noticed a right gluteal indentation. A physical examination revealed a right gluteal indentation, normal gait, trapezius spasm with greater occipital nerve tenderness on palpation and limited range of motion.

In an August 7, 2017 disability note, Dr. Gelber placed appellant off work until August 23, 2017.

By decision dated August 23, 2017, OWCP denied modification of the July 5, 2017 decision denying appellant's request for expansion of the accepted conditions for her claim.

### **LEGAL PRECEDENT -- ISSUE 1**

A recurrence of disability is defined as the inability to work after an employee has returned to work, caused by a spontaneous change in a medical condition which had resulted from a previous injury or illness without an intervening injury or new exposure to the work environment that caused the illness.<sup>4</sup> The Board has held that whether a particular injury causes an employee to be disabled for work is a medical question that must be resolved by competent and probative medical evidence.<sup>5</sup> The weight of medical opinion is determined on the report of a physician, who

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<sup>3</sup> The date July 3, 2017 is handwritten under the typewritten June 29, 2017 date.

<sup>4</sup> 20 C.F.R. § 10.5(x). See *S.F.*, 59 ECAB 525 (2008); *Albert C. Brown*, 52 ECAB 152 (2000); *Terry R. Hedman*, 38 ECAB 222 (1986).

<sup>5</sup> See *R.C.*, 59 ECAB 546 (2008); *Carol A. Lyles*, 57 ECAB 265 (2005); *Donald E. Ewals*, 51 ECAB 428 (2000).

provides a complete and accurate factual and medical history, explains how the claimed disability is related to the employee's work, and supports that conclusion with sound medical reasoning.<sup>6</sup>

In order to establish that a claimant's alleged recurrence of the condition was caused by the accepted injury, medical evidence of bridging symptoms between her present condition and the accepted injury must support the physician's conclusion of a causal relationship.<sup>7</sup>

The Board will not require OWCP to pay compensation for disability in the absence of medical evidence directly addressing the specific dates of disability for which compensation is claimed. To do so, would essentially allow an employee to self-certify his or her disability and entitlement to compensation.<sup>8</sup>

### **ANALYSIS -- ISSUE 1**

The Board finds that appellant has not met her burden of proof to establish a recurrence of disability for the period April 27 to June 9, 2017.

OWCP accepted the claim for concussion without loss of consciousness, right hip contusion, head contusion, cervical strain of muscles and tendons, right shoulder contusion, and scalp laceration. At the time of her injury appellant was a part-time employee working four hours per day. She stopped work on the date of injury, returned to work on August 4, 2016, and continued working her part-time job until April 27, 2017.

In support of her recurrence claim, appellant submitted several duty status reports and an April 24, 2017 office visit note from her attending physician, Dr. Samani indicating that she was totally disabled from work beginning April 24, 2017. Dr. Samani diagnosed greater trochanteric bursitis, inflamed right hip labral tear, piriformis syndrome, right hip and cranium laceration, irregular tearing and maceration of the right acetabular posterior superior aspect, and a right gluteus maximum cyst, which he observed may be due to a chronic focal hematoma. He provided examination findings in his reports. While he indicated that the diagnosed conditions were due to appellant's accepted August 1, 2016 employment injury and that she was temporarily totally disabled, Dr. Samani failed to offer a medical opinion specifically addressing how her disability was causally related to the accepted employment conditions. A mere conclusion without the necessary rationale is insufficient to meet a claimant's burden of proof.<sup>9</sup> While appellant related that she stopped work on April 27, 2017 because her physician restricted her from rotating her right hip, appellant did not submit any medical evidence from her treating physician which substantiated that this restriction was due to the accepted right hip contusion. The record does not contain any bridging evidence of disability from August 4, 2016 to April 27, 2017.<sup>10</sup> For these

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<sup>6</sup> See C.S., Docket No. 08-2218 (issued August 7, 2009); *Sandra D. Pruitt*, 57 ECAB 126 (2005).

<sup>7</sup> *Mary A. Ceglia*, 55 ECAB 626, 629 (2004).

<sup>8</sup> See C.K., Docket No. 17-1853 (issued August 27, 2018).

<sup>9</sup> See E.L., Docket No. 17-1632 (issued January 3, 2018).

<sup>10</sup> *Supra* note 7.

reasons, the medical opinion reports of Dr. Samani are insufficient to establish a recurrence of total disability or work-related disability during the claimed period.

OWCP also received July 12, 2017 reports from Dr. Gelber, who noted that appellant was disabled from work. Dr. Gelber did not, however, relate that appellant was disabled during the specific time period in question, due to the accepted employment conditions.<sup>11</sup>

It is appellant's burden of proof to establish the claim for compensation. The Board finds that appellant did not meet her burden of proof in this case.

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.

### **LEGAL PRECEDENT -- ISSUE 2**

An employee seeking benefits under FECA<sup>12</sup> has the burden of proof to establish the essential elements of his or her claim, including the fact that he or she is an employee of the United States within the meaning of FECA, that the claim was filed within the applicable time limitation, that an 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 related to the employment injury.<sup>13</sup>

Where an employee claims that a condition not accepted or approved by OWCP was due to an employment injury, he or she bears the burden of proof to establish that the condition is causally related to the employment injury.<sup>14</sup> To establish causal relationship between the condition, as well as any attendant disability claimed and the employment event or incident, the employee must submit rationalized medical opinion evidence based on a complete factual and medical background, supporting such a causal relationship.<sup>15</sup> 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 claimant.<sup>16</sup> The weight of medical evidence is determined by its reliability, its probative value,

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<sup>11</sup> *Supra* note 8.

<sup>12</sup> *Supra* note 1.

<sup>13</sup> *C.W.*, Docket No. 17-1636 (issued April 25, 2018); *Tracey P. Spillane*, 54 ECAB 608 (2003); *Elaine Pendleton*, 40 ECAB 1143 (1989).

<sup>14</sup> *See V.B.*, Docket No. 12-0599 (issued October 2, 2012); *Jaja K. Asaramo*, 55 ECAB 200 (2004).

<sup>15</sup> *See M.W.*, 57 ECAB 710 (2006); *John D. Jackson*, 55 ECAB 465 (2004).

<sup>16</sup> *See John W. Montoya*, 54 ECAB 306 (2003).

its convincing quality, the care of analysis manifested, and the medical rationale expressed in support of the physician's opinion.<sup>17</sup>

### **ANALYSIS -- ISSUE 2**

The Board finds that appellant has not met her burden of proof to establish additional right hip conditions causally related to the accepted August 1, 2016 work injury.

If a claimant alleges that a condition not accepted or approved by OWCP was due to appellant's employment injury, he or she bears the burden of proof to establish that the condition is causally related to the employment injury through the submission of rationalized medical evidence.<sup>18</sup>

The record contains several reports from Dr. Samani diagnosing various right hip conditions. The only accepted right hip condition was hip contusion. In an April 5, 2017 report, Dr. Samani diagnosed right hip and cervical muscle pain, muscle spasms, and possible piriformis syndrome. On April 24, 2017 he, based upon a review of a right hip MRI scan, reported right hip regular tearing, maceration, posterior screw to acetabular labrum, adventitious bursitis, paralabral and intralabral cystic changes, six MM rounded loose body, and Morel Lavallee-type injury. Dr. Samani, in an April 24, 2017 duty status report diagnosed inflamed right hip labral tear and he noted clinical findings of inflamed right hip labral tear. On a May 10, 2017 report, Dr. Samani noted a right hip MRI scan showed irregular tearing and maceration of the right acetabular posterior suspect, and right gluteus maximum cyst. In a June 7, 2017 note, he diagnosed greater trochanteric bursitis. Dr. Samani, however, offered no opinion in these reports as to the cause of the diagnosed conditions. Medical evidence that does not offer any opinion regarding the cause of an employee's condition is of no probative value on the issue of causal relationship.<sup>19</sup> These reports are therefore of no probative value in establishing that appellant's claim should be expanded to include additional right hip conditions as causally related to the accepted August 1, 2016 employment injury.

The record also contains a June 29, 2017 duty status report from Dr. Samani diagnosing right hip bursitis, which he attributed to the August 1, 2016 work injury and a June 5, 2017 correction attributing the posterosuperolabral tear to the August 1, 2016 work injury. However, Dr. Samani did not provide any medical rationale explaining how the accepted August 1, 2016 employment injury caused, aggravated, or contributed to the diagnosed right hip bursitis or posterosuperolabral tear.<sup>20</sup> The Board has found that medical evidence is of limited probative value if it contains a conclusion regarding causal relationship, but does not offer any rationalized

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<sup>17</sup> See *H.H.*, Docket No. 16-0897 (issued September 21, 2016); *James Mack*, 43 ECAB 321 (1991).

<sup>18</sup> *Jaja K. Asaramo*, *supra* note 14.

<sup>19</sup> See *D.S.*, Docket No. 15-1930 (issued January 20, 2016); see also *Jaja K. Asaramo*, *id.*

<sup>20</sup> *K.W.*, Docket No. 10-0098 (issued September 10, 2010); *A.D.*, 58 ECAB 149 (2006); *Linda I. Sprague*, 48 ECAB 386 (1997).

medical explanation on the issue of causal relationship.<sup>21</sup> The Board also notes that Dr. Samani did not explain why the evidence of record lacked bridging evidence between the accepted injury and the subsequently diagnosed conditions.<sup>22</sup> Accordingly, these reports from Dr. Samani are also insufficient to establish that appellant sustained right hip bursitis or posterolateral labral tear as a result of the accepted August 1, 2016 employment injury.

The record also contains a note and Form CA-17 dated July 12, 2017 from Dr. Gelber diagnosing gluteal nerve injury. Dr. Gelber offered no opinion as to the cause of the diagnosed conditions in the July 12, 2017 note. As noted above, medical evidence offering no opinion regarding the cause of an employee's condition is of diminished probative value on the issue of causal relationship.<sup>23</sup> On the duty status report Dr. Gelber attributed the gluteal nerve injury to the accepted August 1, 2016 work injury. However, he provided no supporting rationale explaining how the diagnosed condition was caused or aggravated by the accepted August 1, 2016 work injury. As discussed above, the Board has found medical evidence containing a conclusion regarding causal relationship without any rationalized medical explanation on the issue of causal relationship is of limited probative value.<sup>24</sup> For these reasons, the medical evidence from Dr. Gelber is insufficient to establish an additional right hip condition causally related to the accepted August 1, 2016 employment injury.

Appellant also submitted reports from Ms. Kodad and Mr. Sorensen, physician assistants. A physician assistant, however, is not considered a physician as defined by section 8101(2) of FECA.<sup>25</sup> Consequently, these reports have no probative value.

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical evidence.<sup>26</sup> Appellant failed to provide reasoned medical evidence demonstrating that she sustained an additional right hip condition causally related to the accepted August 1, 2016 employment injury. Accordingly, the Board finds that she has failed to meet her burden of proof to establish expansion of the acceptance of her claim.<sup>27</sup>

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<sup>21</sup> *J.F.*, Docket No. 09-1061 (issued November 17, 2009); *A.D.*, *id.*; *Mary E. Marshall*, 56 ECAB 420 (2005). See also *Franklin D. Haislah*, 52 ECAB 457 (2001); *Jimmie H. Duckett*, 52 ECAB 332 (2001).

<sup>22</sup> *Supra* note 7.

<sup>23</sup> See *D.S.*, Docket No. 15-1930 (issued January 20, 2016); see also *Jaja K. Asaramo*, *supra* note 14.

<sup>24</sup> *J.F.*, *supra* note 21; *A.D.*, *supra* note 20; *Mary E. Marshall*, *supra* note 21; see also *Franklin D. Haislah*, *supra* note 21; *Jimmie H. Duckett*, *supra* note 21.

<sup>25</sup> See *V.J.*, Docket No. 17-0358 (issued July 24, 2018); see also *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); *Charley V.B. Harley*, 2 ECAB 208 (1949) (the Board held that medical opinion, in general, can only be given by a qualified physician). See also 5 U.S.C. § 8101(2).

<sup>26</sup> See *E.P.*, Docket No. 16-0153 (issued August 25, 2016); *D.I.*, 59 ECAB 158 (2007).

<sup>27</sup> See *E.P.*, *id.*



On appeal appellant corrected what she alleged were discrepancies and inaccuracies in medical evidence submitted, particularly the August 1, 2016 emergency room report document. She notes that the injury occurred to her left arm, not her right arm as noted in the emergency room report. Appellant further argues that her right butt cheek is deformed as it never healed properly following the accepted August 1, 2016 work injury. As discussed above, none of the medical evidence she submitted contains a rationalized opinion explaining why the acceptance of her claim should be expanded to include additional conditions.

**CONCLUSION**

The Board finds that appellant has not established that she sustained a recurrence of a disability during the period April 27 to June 9, 2017 causally related to her accepted employment injury or that the acceptance of her claim should be expanded to include additional right hip conditions causally related to her accepted August 1, 2016 employment injury.

**ORDER**

**IT IS HEREBY ORDERED THAT** the decisions of the Office of Workers' Compensation Programs dated August 23 and June 30, 2017 are affirmed.

Issued: October 16, 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