



## **FACTUAL HISTORY**

On August 30, 2016 appellant, then a 44-year-old deputy U.S. Marshal, filed a traumatic injury claim (Form CA-1) alleging that on August 19, 2016 he was bitten by a dog on the right leg while in the performance of duty.<sup>2</sup> He stopped work on August 22, 2016.

In a progress report dated September 21, 2016, Dr. Manoj Moholkar, an internist specializing in occupational medicine, indicated that the dog tore through appellant's jeans and left puncture wounds. He diagnosed a dog bite of the right lower leg, right hip strain, and a contusion of the right knee and lower leg. Dr. Moholkar found that appellant could resume his usual work duties and required no further medical treatment.

On January 5, 2017 OWCP accepted appellant's claim for a dog bite of the right lower leg, right hip strain, a right knee contusion, and a contusion of the right lower leg, all of which it found had resolved by September 21, 2016.

On June 13, 2017 appellant filed a notice of recurrence (Form CA-2a) causally related to his accepted August 19, 2016 employment injury. He advised that since his injury he had experienced continued pain and altered sensation in his lower leg resulting in increased limitations.

Appellant submitted treatment notes dated from 2016 and 2017 from a physician assistant.

In a development letter dated July 13, 2017, OWCP advised appellant of the definition of a recurrence of disability and the type of evidence necessary to establish that he had sustained a recurrence of employment-related disability. It afforded him 30 days to submit additional evidence.

Thereafter, OWCP received a report dated July 3, 2017 by Dr. David A. Chad, a Board-certified neurologist and internist. Dr. Chad discussed appellant's history of a dog bite on August 19, 2016 with continued symptoms of "tightness as though the skin is swollen with sensations of numbness involving the entire leg from the knee down." He noted that appellant's symptoms increased after extensive walking and standing. On examination Dr. Chad found normal strength of the lower extremities with some decrease in pinprick sensation over the sole of the foot on the right side. He referred appellant for testing to determine whether the bite had caused either an injury to the sciatic nerve, a branch nerve injury, or a vascular injury.

In a report dated July 12, 2017, Dr. Leon G. Josephs, a vascular surgeon, evaluated appellant for increasing intermittent pain, numbness, and tightness of the right leg that had begun in August 2016 after a dog bite. He advised that he was "unsure of the exact etiology of the symptoms" and referred appellant for diagnostic testing.

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<sup>2</sup> By decision dated October 13, 2016, OWCP denied appellant's claim as the medical evidence was insufficient to support that he sustained a diagnosed condition causally related to the accepted employment incident. Following a preliminary review of the record, by decision dated December 20, 2016, an OWCP hearing representative reversed the October 13, 2016 and accepted the claim for a dog bite of the right lower leg, a right hip strain, and a contusion of the right knee and lower leg, resolved by September 21, 2016.

On August 2, 2017 Dr. Moholkar diagnosed employment-related numbness and tingling of the right lower extremity, muscle cramping, right leg pain, sequela of a dog bite, and a work-related injury. He found that appellant was unable to work.

Appellant, in a statement dated August 7, 2017, advised that his symptoms following the dog bite had worsened. He indicated that he was currently undergoing testing to determine the etiology of his symptoms. Appellant asserted that his physicians had found that he should not work.

In a progress report dated August 15, 2017, Dr. Moholkar diagnosed sequela of a dog bite with muscle cramping and right lower extremity numbness and tingling, indicated that the condition was employment related, and found that appellant was unable to work.<sup>3</sup>

By decision dated August 30, 2017, OWCP denied appellant's claim for a recurrence of disability. It found that the medical evidence submitted failed to establish that his accepted August 19, 2016 employment injury had worsened to the extent that he was disabled from his work duties.

In a report dated September 12, 2017, Dr. Moholkar discussed appellant's August 19, 2016 employment injury and noted that object studies, including a computerized tomography (CT) scan of the abdominal aorta and bilateral iliofemoral lower extremity, nerve conduction studies of the right lower extremity, and a right lower extremity ultrasound, had yielded normal findings. He diagnosed sequela of a dog bite, right lower extremity numbness and tingling, muscle cramping, and right leg pain. On examination Dr. Moholkar found no swelling or erythema of the right lower extremity and a "[p]oorly demarcated soft tissue mass about [the] lateral most aspect of [the] distal quadriceps medial to puncture wound...." He advised that appellant "may have developed reflex sympathetic dystrophy (RSD) or CRPS due to trauma from the bite." Dr. Moholkar found that appellant continued to be unable to work due to "pain and paraesthesias."

On September 13, 2017 appellant requested a review of the written record by an OWCP hearing representative.

By decision dated February 20, 2018, OWCP's hearing representative affirmed the August 30, 2017 decision. He found that Dr. Moholkar had failed to explain how appellant sustained a recurrence of disability beginning June 7, 2017.

Thereafter, OWCP received an undated report from Dr. Janet D. Pearl, a Board-certified anesthesiologist. Dr. Pearl discussed appellant's symptoms of pain in the right lateral knee and lower right thigh after an August 18, 2016<sup>4</sup> dog bite which increased with temperature changes, touch, activity, and extensive standing or walking. On examination she found mild atrophy around the right distal quadriceps, a hyperpigmented area on the right lateral distal aspect of the thigh, and moderate to severe tenderness to palpation of the hyperpigmented area. Dr. Pearl related: "Due

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<sup>3</sup> In an August 16, 2017 physician evaluation report form for the employing establishment, Dr. Moholkar diagnosed a dog bite, paresthesia of the right lower extremity, and muscle cramping. He provided work restrictions.

<sup>4</sup> The Board notes that the correct date of incident is August 19, 2016.

to the nature of [appellant's] injury he is in constant pain which prohibits him from prolonged and strenuous physical activity.” She diagnosed causalgia of the right lower limb and noted that the prognosis for CRPS was guarded. Dr. Pearl provided work restrictions.

An August 3, 2017 CT scan of the abdomen, pelvis, and bilateral lower extremity was normal except for mild right hip degenerative changes. A September 9, 2017 ultrasound of the right leg revealed no abnormalities.

Appellant on March 5, 2018 requested reconsideration.

By decision dated August 28, 2018, OWCP denied modification of its February 20, 2018 decision. It found that the evidence of record was insufficient to establish that appellant had sustained CRPS/causalgia of the right lower extremity or a recurrence of disability on or after June 7, 2017 causally related to his August 19, 2016 employment injury.

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

A recurrence of disability means an inability to work after an employee has returned to work, caused by a spontaneous change in a medical condition which resulted from a previous compensable injury or illness and without an intervening injury or new exposure in the work environment.<sup>5</sup> This term also means an inability to work because a light-duty assignment made specifically to accommodate an employee's physical limitations, and which is necessary because of a work-related injury or illness, is withdrawn or altered so that the assignment exceeds the employee's physical limitations. A recurrence does not occur when such withdrawal occurs for reasons of misconduct, nonperformance of job duties, or a reduction-in-force.<sup>6</sup>

OWCP's procedures provide that a recurrence of disability includes a work stoppage caused by a spontaneous material change in the medical condition demonstrated by objective findings. That change must result from a previous injury or occupational illness rather than an intervening injury or new exposure to factors causing the original illness. It does not include a condition that results from a new injury, even if it involves the same part of the body previously injured.<sup>7</sup>

An employee who claims a recurrence of disability due to an accepted employment-related injury has the burden of proof to establish by the weight of the substantial, reliable, and probative evidence that the disability for which he or she claims compensation is causally related to the accepted injury. This burden of proof requires that a claimant furnish medical evidence from a physician who, on the basis of a complete and accurate factual and medical history, concludes that, for each period of disability claimed, the disabling condition is causally related to the employment

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<sup>5</sup> 20 C.F.R. § 10.5(x); *J.D.*, Docket No. 18-1533 (issued February 27, 2019).

<sup>6</sup> *Id.*

<sup>7</sup> *F.C.*, Docket No. 18-0334 (issued December 4, 2018); Federal (FECA) Procedure Manual, Part 2 -- Claims, *Recurrences*, Chapter 2.1500.2 (June 2013).

injury, and supports that conclusion with medical reasoning.<sup>8</sup> Where no such rationale is present, the medical evidence is of diminished probative value.<sup>9</sup>

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

The Board finds that appellant has not met his burden of proof to establish a recurrence of total disability, commencing June 13, 2017, causally related to his accepted August 19, 2016 employment injury.

On July 3, 2017 Dr. Chad discussed appellant's symptoms of numbness of the leg and skin tightness which increased with activity. He referred appellant for objective testing to rule out a sciatica or branch nerve injury or a vascular injury. Dr. Chad, however, did not address disability. As he failed to attribute any disability to appellant's employment injury, his opinion is insufficient to meet his burden of proof.<sup>10</sup>

In a report dated July 12, 2017, Dr. Josephs obtained a history of appellant experiencing increased pain, numbness, and right leg tightness after a dog bite in August 2016. He related that he was unclear of the etiology of his symptoms and recommended additional testing. However, medical evidence that does not offer an opinion regarding the cause of an employee's condition is of no probative value on the issue of causal relationship.<sup>11</sup>

On August 2, 2017 Dr. Moholkar diagnosed numbness and tingling of the right lower extremity, muscle cramping, right leg pain, sequela of a dog bite, and a work-related injury. He found that appellant was disabled from employment. In a progress report dated August 15, 2017, Dr. Moholkar diagnosed sequela of a dog bite with muscle cramping and right lower extremity numbness and tingling, indicated that the condition was employment related, and found that appellant was disabled from employment. He, however, failed to provide medical reasoning explaining why appellant's accepted employment injury had worsened such that he became disabled from his work duties beginning June 13, 2017.<sup>12</sup> Thus, Dr. Moholkar's reports are of limited probative value.<sup>13</sup>

On September 12, 2017 Dr. Moholkar advised that diagnostic testing had revealed no abnormalities. He diagnosed sequela of a dog bite, right lower extremity numbness and tingling, muscle cramping, right leg pain, and possible CRPS or RSD. Dr. Moholkar opined that appellant was disabled from work as a result of pain and altered sensation. He did not, however, provide rationale for his opinion other than to note appellant's symptoms of pain and changes in sensation. The Board has held that a report is of little probative value regarding causal relationship if it does

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<sup>8</sup> *J.D.*, Docket No. 18-0616 (issued January 11, 2019).

<sup>9</sup> *G.G.*, Docket No. 18-1788 (issued March 26, 2019).

<sup>10</sup> *O.S.*, Docket No. 16-1771 (issued January 23, 2018).

<sup>11</sup> *See L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

<sup>12</sup> *L.S.*, Docket No. 18-1494 (issued April 12, 2019).

<sup>13</sup> *Supra* note 9.

not contain medical rationale explaining how the claimed disability or condition was causally related to an employment injury.<sup>14</sup> Thus, Dr. Moholkar's report is insufficient to establish that appellant sustained an employment-related recurrence of disability.<sup>15</sup>

Appellant also submitted reports from a physician assistant; however, a physician assistant is not considered a physician as defined under FECA, and thus these reports are of no probative value and are insufficient to establish causal relationship.<sup>16</sup>

The Board finds that appellant has failed to submit medical evidence sufficient to establish disability from employment commencing June 13, 2017 causally related to residuals of the accepted injury. Thus, the Board finds that he has not established by the weight of the reliable, probative, and substantial evidence, a change in the nature and extent of the injury-related condition resulting in his inability to perform his employment duties.<sup>17</sup>

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

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 period of FECA,<sup>18</sup> 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>19</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>20</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>21</sup> To establish causal relationship between the condition, as well as any attendant disability claimed and the employment event or incident, the

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<sup>14</sup> *Id.*

<sup>15</sup> *See S.G.*, Docket No. 18-1271 (issued March 1, 2019).

<sup>16</sup> 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); 20 C.F.R. § 10.5(t); *see also T.S.*, Docket No. 18-0150 (issued April 12, 2019).

<sup>17</sup> *Id.*

<sup>18</sup> *S.B.*, Docket No. 17-1779 (issued February 7, 2018); *J.P.*, 59 ECAB 178 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

<sup>19</sup> *J.M.*, Docket No. 17-0284 (issued February 7, 2018); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

<sup>20</sup> *K.M.*, Docket No. 15-1660 (issued September 16, 2016); *L.M.*, Docket No. 13-1402 (issued February 7, 2014); *Delores C. Ellyett*, 41 ECAB 992 (1990).

<sup>21</sup> *See T.F.*, Docket No. 17-0645 (issued August 15, 2018).

employee must submit rationalized medical opinion evidence based on a complete factual and medical background, supporting such a causal relationship.<sup>22</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>23</sup> The weight of medical evidence is determined by its reliability, its probative value, its convincing quality, the care of analysis manifested, and the medical rationale expressed in support of the physician's opinion.<sup>24</sup>

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

The Board finds that appellant has not met his burden of proof to establish that the acceptance of his claim should be expanded to include causalgia/CRPS.

On September 12, 2017 Dr. Moholkar found no erythema or swelling of the right lower extremity on examination, but a soft tissue mass in the lateral aspect of the distal quadriceps near the puncture wound. He diagnosed possible RSD or CRPS as a result of trauma from the dog bite. However, Dr. Moholkar's opinion that appellant possibly had sustained CRPS or RSD due to his employment injury is speculative in nature and thus of little probative value.<sup>25</sup> Further, he did not explain the mechanism by which such a diagnosis could have occurred.

In an undated report, Dr. Pearl reviewed appellant's complaints of pain around the right lateral knee and lower right thigh subsequent to an August 18, 2016 dog bite. She found mild atrophy of the right distal quadriceps and a right lateral thigh hyperpigmented area which was tender to palpation. Dr. Pearl diagnosed right lower limb causalgia and advised that it was difficult to determine the prognosis for CRPS as it was a complex condition. She found that appellant's pain prevented him from engaging in extensive physical activity and provided work restrictions. Dr. Pearl, however, did not explain the mechanism by which the accepted employment injury resulted in the diagnosis of causalgia/CRPS. A mere conclusion without the necessary rationale explaining how and why the accepted exposure could result in a diagnosed condition is not sufficient to meet a claimant's burden of proof.<sup>26</sup>

Appellant may submit new evidence 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.

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<sup>22</sup> See S.A., Docket No. 18-0399 (issued October 16, 2018).

<sup>23</sup> See P.M., Docket No. 18-0287 (issued October 11, 2018).

<sup>24</sup> See F.H., Docket No. 18-1238 (issued January 18, 2019).

<sup>25</sup> J.C., Docket No. 18-1722 (issued April 5, 2019).

<sup>26</sup> E.D., Docket No. 16-1854 (issued March 3, 2017).

**CONCLUSION**

The Board finds that appellant has not met his burden of proof to establish a recurrence of total disability, commencing June 13, 2017, causally related to his accepted August 19, 2016 employment injury. The Board further finds that he has not met his burden of proof to establish that the acceptance of his claim should be expanded to include causalgia/CRPS.

**ORDER**

**IT IS HEREBY ORDERED THAT** the August 28, 2018 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: June 3, 2019  
Washington, DC

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

Janice B. Askin, Judge  
Employees' Compensation Appeals Board

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