

fell down steps while in the performance of duty. OWCP accepted the claim for nondisplaced fracture of the fifth metatarsal bone, right foot, and closed fracture. It paid appellant wage-loss compensation on the supplemental rolls for the period August 5 to 28, 2017.

In a June 21, 2017 report, Dr. Matthew J. De Orio, a Board-certified orthopedic surgeon, noted the history of appellant's June 19, 2017 employment injury. He reported examination and x-ray findings and provided an assessment of right fifth metatarsal avulsion fracture, closed, mildly comminuted, and mildly displaced. Dr. De Orio recommended closed treatment of the injury with the use of a walking boot. He held appellant off work for six weeks.

In an October 11, 2017 report, Dr. De Orio noted that appellant had returned to work three to four days a week and had transitioned into a regular shoe from a postoperative shoe. He noted that she complained of hip pain from when she was wearing the walking boot. Dr. De Orio recommended follow-up with a specialist if appellant's hip pain was not relieved. In a December 15, 2017 report, he indicated that x-rays of the right foot were essentially normal. An assessment of right healed fifth metatarsal base fracture and left hip flexor tendinitis were provided. With regard to the left hip, Dr. De Orio indicated that the x-rays of the left hip were normal and that there was no significant degenerative change. He also advised that it was difficult to determine whether or not the left hip tendinitis was caused by the same injury as appellant's right foot. Physical therapy was recommended for appellant's left hip condition. Copies of the December 15, 2017 x-rays of the right foot and left hip were provided.

In a December 20, 2017 report, Dr. Brett Franklin, a Board-certified orthopedic surgeon, noted examination findings of the left hip and reviewed a left hip x-ray which showed no acute injuries, but degenerative changes at L5 and S1 with no significant impingement signs. An impression of left hip pain consistent with intra-articular pathology was provided.

A December 26, 2017 left hip arthrogram revealed a partial thickness tear of the gluteus minimus tendon and a tear of the superior labrum.

On January 29, 2018 appellant requested that the acceptance of her claim be expanded to include her left hip conditions.

In a March 28, 2018 development letter, OWCP advised appellant that additional medical evidence was necessary to expand the acceptance of her claim to include additional left hip conditions as consequential to her accepted injury. It afforded her 30 days to submit additional medical evidence.

In response, OWCP received an April 9, 2018 treatment note from Dr. Franklin which diagnosed left hip pain and nontraumatic left hip labral tear.

By decision dated May 10, 2018, OWCP denied appellant's request for expansion of the acceptance of the claim "to include a consequential injury." It found that the medical evidence of record was insufficient to establish that the left hip conditions were causally related to the accepted June 19, 2017 employment injury.

On June 11, 2018 appellant requested reconsideration. In a June 7, 2018 letter, she advised that she experienced left hip pain during the time she was treated for her broken foot utilizing a

walking boot and that the pain continued after she stopped its use. Appellant indicated that both her husband and her supervisor had noticed a change in her gait.

In an June 8, 2018 statement, C.S., a coworker, indicated that appellant had favored her left side after she returned to work following her injury. She indicated that appellant had problems with her hip since the fall and that she had noticed a change in her gait.

By decision dated August 9, 2018, OWCP denied modification of the May 10, 2018 decision as the evidence submitted was insufficient to establish appellant's claim. It found that "the medical evidence does not demonstrate that the weakness or impairment caused by [appellant's] accepted work-related injury or illness led to an aggravation of the original injury or to a new injury as required for coverage under FECA."

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, that an injury was sustained in the performance of duty as alleged, and that any specific condition or disability for which compensation is claimed is causally related to the employment injury.² 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.³

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.⁴

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence. 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.⁵

When an injury arises in the course of employment, every natural consequence that flows from that injury likewise arises out of the employment, unless it is the result of an independent

² *J.B.*, Docket No. 18-0522 (issued January 16, 2019); *see also J.T.*, Docket No. 17-0578 (issued December 6, 2017).

³ *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).

⁴ *F.L.*, Docket No. 17-1613 (issued August 15, 2018).

⁵ *J.B.*, *supra* note 2; *I.J.*, 59 ECAB 408 (2008).

intervening cause attributable to the claimant's own conduct.⁶ Thus, a subsequent injury, be it an aggravation of the original injury or a new and distinct injury, is compensable if it is the direct and natural result of a compensable primary injury.⁷ A claimant bears the burden of proof to establish a claim for a consequential injury. As part of this burden, the claimant must present rationalized medical opinion evidence.⁸

ANALYSIS

The Board finds that appellant has not met her burden of proof to expand the acceptance of her claim to include additional left hip conditions causally related or consequential to the accepted June 19, 2017 employment injury.

Following her June 19, 2017 employment injury, appellant began treating with Dr. De Orio for her right foot condition, on June 21, 2017 he recommended use of a walking boot. In his October 11, 2017 report, Dr. De Orio related that she complained of left hip pain which she associated with wearing the walking boot. Pain and/or discomfort is only considered a symptom, not a medical diagnosis.⁹ In a December 15, 2017 report, Dr. De Orio reported that the left hip x-ray was essentially normal. While he provided an assessment of left hip flexor tendinitis, he failed to offer a specific opinion as to whether the diagnosed condition was caused by or consequential to the accepted right foot condition and the walking boot he had prescribed. Rather, Dr. De Orio opined that it was difficult to determine whether or not the left hip tendinitis was caused by the same injury as appellant's right foot. The Board has held that medical evidence which does not offer an opinion regarding the cause of an employee's condition is of no probative value on the issue of causal relationship.¹⁰

Dr. Franklin treated appellant's left hip conditions, but was not aware of the history of her June 19, 2017 employment injury or of the fact that she wore a walking boot for treatment of her right foot condition. In a December 20, 2017 report, he reported a left hip x-ray which showed degenerative changes at L5 and S1 with no acute injuries or significant impingement signs. In his April 9, 2018 treatment note, Dr. Franklin diagnosed left hip pain and nontraumatic left hip labral tear. Despite the fact he was not aware of the June 19, 2017 employment injury, he indicated that the left hip labral tear was nontraumatic in nature, thus essentially negating a causal relationship.

⁶ *A.M.*, Docket No. 18-0685 (issued October 26, 2018); *Mary Poller*, 55 ECAB 483, 487 (2004); 1 Arthur Larson & Lex K. Larson, *The Law of Workers' Compensation* 10-1 (2006).

⁷ *J.B.*, *supra* note 2; *Susanne W. Underwood (Randall L. Underwood)*, 53 ECAB 139, 141 n.7 (2001).

⁸ *F.L.*, *supra* note 4; *Charles W. Downey*, 54 ECAB 421 (2003).

⁹ Findings of pain or discomfort alone do not satisfy the medical aspect of the fact of injury medical determination. Federal (FECA) Procedure Manual, Part 2 -- Claims, *Fact of Injury*, Chapter 2.803.4a(6) (August 2012); *see A.C.*, Docket No. 16-1587 (issued December 27, 2016).

¹⁰ *See L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

As Dr. Franklin's medical reports lacked both a proper history and a rationalized opinion supporting causal relationship, these reports were of limited probative value.¹¹

OWCP also received a December 15, 2017 x-ray of the left hip and a December 26, 2017 left hip arthrogram. However, diagnostic studies are of lack probative value as they do not address whether the employment injury caused the diagnosed conditions.¹²

Appellant's statements as well as the statement of her coworker pertaining to her left hip pain and altered gait are insufficient to establish causal relationship as lay persons are not competent to render medical opinions.¹³ As noted, causal relationship is a medical question that requires rationalized medical opinion evidence to resolve the issue.¹⁴ Appellant's personal belief that her prescribed walking boot either caused or contributed to her condition is insufficient, by itself, to establish causal relationship.¹⁵

The Board finds that appellant has not met her burden of proof because the medical opinion evidence of record is insufficient to establish the critical element of causal relationship between appellant's additional diagnosed conditions and the accepted employment injury.¹⁶

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 expand the acceptance of her claim to include additional left hip conditions causally related or consequential to the accepted June 19, 2017 employment injury.

¹¹ See *S.G.*, Docket No. 18-1373 (issued February 12, 2019).

¹² See *K.S.*, Docket No. 18-1781 (issued April 8, 2019); *G.S.*, Docket No. 18-1696 (issued March 26, 2019).

¹³ See *J.A.*, Docket No. 18-0882 (issued December 31, 2018); *James A. Long*, 10 ECAB 538 (1989).

¹⁴ *Supra* note 5.

¹⁵ *M.B.*, Docket No. 18-0906 (issued November 21, 2018); *Phillip L. Barnes*, 55 ECAB 426, 440 (2004).

¹⁶ See *J.A.*, *supra* note 13; *T.F.*, Docket No. 17-0645 (issued August 15, 2018); *G.M.*, Docket No. 16-1764 (issued March 16, 2018).

ORDER

IT IS HEREBY ORDERED THAT the August 9 and May 10, 2018 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: May 10, 2019
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