

**United States Department of Labor  
Employees' Compensation Appeals Board**

M.B., Appellant	)	
	)	
and	)	Docket No. 19-1816
	)	Issued: April 28, 2020
U.S. POSTAL SERVICE, SAGINAW POST	)	
OFFICE, Saginaw, MI, Employer	)	
	)	

*Appearances:*  
*Appellant, pro se*  
*Office of Solicitor, for the Director*

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:  
CHRISTOPHER J. GODFREY, Deputy Chief Judge  
JANICE B. ASKIN, Judge  
PATRICIA H. FITZGERALD, Alternate Judge

**JURISDICTION**

On August 28, 2019 appellant filed a timely appeal from a July 17, 2019 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act<sup>1</sup> (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

**ISSUE**

The issue is whether appellant has met her burden of proof to establish a right hip condition causally related to the accepted factors of her federal employment.

**FACTUAL HISTORY**

On May 6, 2019 appellant, then a 68-year-old letter carrier, filed an occupational disease claim (Form CA-2) alleging that she developed a right hip condition due to factors of her federal employment including driving, walking, dismounting, heavy lifting, pushing, pulling, reaching,

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<sup>1</sup> 5 U.S.C. § 8101 *et seq.*

sitting for long periods of time, increased work requirements, and poor equipment. She indicated that she first became aware of the condition on February 28, 2017 and first attributed it to factors of her federal employment on May 8, 2017. Appellant noted that she delayed filing her occupational disease claim because she wanted to try physical therapy treatment to resolve her right hip condition. She did not stop work.

In a development letter dated May 9, 2019, OWCP informed appellant that the evidence of record was insufficient to establish her claim. It advised her of the type of factual and medical evidence needed and provided a questionnaire for her completion. OWCP afforded appellant 30 days to submit the necessary evidence.

On June 8, 2019 appellant responded to OWCP's development questionnaire. She noted that she worked five to six days per week. Appellant indicated that she was dismounting 25 to 30 times per day, performing heavy lifting 4 to 5 times per day, pushing 5 to 6 times per day, and reaching 2 to 3 times per day. She reported that the hampers that were used for loading were in need of repair and that the weight was improperly distributed such that reaching and lifting them was very difficult. Appellant further reported that the mail trucks were too small for the number of parcels that needed to be delivered. She stated that there was a significant increase in the volume of parcels which required more dismounting and lifting on a daily basis. Appellant noted that she had hip injection surgery in October 2018.

In a February 7, 2017 report, Dr. Sajeda Nusrat, a Board-certified family practitioner, noted appellant's complaints of pain and stiffness in the lower back and right hip. She indicated that appellant had been seeing an orthopedic surgeon for bilateral hip arthritis. Dr. Nusrat examined appellant and diagnosed chronic right-sided low back pain with right-sided sciatica and degenerative disc disease of the lumbar spine. She ordered a magnetic resonance imaging (MRI) scan of appellant's lower back.

A February 17, 2017 MRI scan report on appellant's lumbar spine found degenerative disc disease and facet arthropathy. It further revealed broad-based posterolateral disc protrusion on the left at L4-5 contributing to marked left foraminal narrowing. The report also described less prominent degenerative changes.

In a March 1, 2017 report, Dr. Nusrat noted that appellant was experiencing pain and stiffness in the lower back radiating to the right leg. She examined appellant and diagnosed chronic right-sided low back pain with right-sided sciatica and degenerative disc disease of the lumbar spine. Dr. Nusrat recommended heat, pain medication, and stretching exercises for appellant's conditions.

Dr. Nusrat on April 5, 2017 indicated that appellant had continued lower back pain. She reported that appellant could not work more than eight hours a day and was having difficulty driving a mail truck due to severe back pain. Dr. Nusrat noted that appellant was following diet, activity, and weight loss advice that was previously given. She diagnosed chronic midline low back pain with sciatica, hypertension, and gastroesophageal reflux disease without esophagitis.

In a May 2, 2017 report, Dr. Nusrat noted that appellant had been experiencing right hip pain for several months. She indicated that appellant had tried physical therapy treatment which

did not help. Dr. Nusrat noted that appellant was referred to an orthopedic surgeon who performed a pain injection for her hip which provided only temporary relief. She examined appellant and diagnosed right hip pain and degenerative arthritis. Dr. Nusrat referred appellant back to her orthopedic surgeon for appellant's right hip pain and prescribed pain medication.

In a November 7, 2017 report,<sup>2</sup> Dr. Nusrat noted that appellant's physical therapy treatment had failed. She examined appellant and diagnosed bilateral hip pain due to arthritis, hypertension, gastroesophageal reflux disease, allergic rhinitis, and anxiety. Dr. Nusrat explained the need for lifestyle modification including a diet, exercise, and weight loss. She recommended that appellant continue seeing her orthopedic surgeon.

In a January 9, 2018 report, Dr. Nusrat indicated that appellant was dealing with anxiety. She examined appellant and diagnosed hypertension, gastroesophageal reflux disease, allergic rhinitis, and anxiety.

March 17, 2018 diagnostic test reports showed the results of a comprehensive metabolic panel, a 25-hydroxy vitamin D test, and a lipid panel.

In an April 3, 2018 report, Dr. Nusrat noted appellant's complaints of neck pain since waking up that morning. She indicated that there was no mechanism of injury and that appellant's range of motion was limited due to pain. Dr. Nusrat reported that appellant was also suffering from headaches. She examined appellant and diagnosed a neck sprain.

In a September 14, 2018 report, Dr. Nusrat noted that appellant was dealing with pain in the left ear and a fever. She examined appellant and diagnosed otitis media of the left ear, osteoarthritis of the right hip, and hypertension. Dr. Nusrat referred appellant to an orthopedic surgeon for her osteoarthritis.

In a March 8, 2019 report, Dr. Nusrat noted that appellant was dealing with throbbing neck pain radiating to her left arm for approximately two weeks. She noted that appellant "denie[d] any injury." Dr. Nusrat examined appellant and diagnosed neck pain on the left side and referred her for physical therapy treatment.

In a May 2, 2019 report, Dr. Nusrat noted that appellant did not attend physical therapy treatment because her neck pain had resolved after she stopped using her computer. She indicated that appellant had severe osteoarthritis of the right hip and was scheduled for a hip replacement on June 27, 2019. Dr. Nusrat diagnosed chronic neck pain.

Appellant also submitted medical history records dated February 7, 2017 through March 4, 2019 which documented medical services, surgical history, allergies, and vital signs.

By decision dated July 17, 2019, OWCP denied appellant's claim finding that the medical evidence of record was insufficient to establish a causal relationship between her right hip condition and the accepted factors of her federal employment.

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<sup>2</sup> Appellant submitted a report with the same content from Dr. Nusrat dated December 19, 2018.

## LEGAL PRECEDENT

An employee seeking benefits under FECA<sup>3</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,<sup>4</sup> that an injury was sustained in the performance of duty as alleged, and that any disability or medical condition for which compensation is claimed is causally related to the employment injury.<sup>5</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>6</sup>

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; (2) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; and (3) medical evidence establishing that the diagnosed condition is causally related to the identified employment factors.<sup>7</sup>

Causal relationship is a medical question that requires rationalized medical opinion evidence to resolve the issue.<sup>8</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>9</sup> Neither the mere fact that a disease or condition manifests itself during a period of employment, nor the belief that the disease or condition was caused or aggravated by employment factors or incidents, is sufficient to establish causal relationship.<sup>10</sup>

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<sup>3</sup> *Supra* note 1.

<sup>4</sup> *E.W.*, Docket No. 19-1393 (issued January 29, 2020); *J.P.*, 59 ECAB 178 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

<sup>5</sup> *L.C.*, Docket No. 19-1301 (issued January 29, 2020); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

<sup>6</sup> 20 C.F.R. § 10.115; *E.S.*, Docket No. 18-1580 (issued January 23, 2020); *L.M.*, Docket No. 13-1402 (issued February 7, 2014); *Delores C. Ellyett*, 41 ECAB 992 (1990).

<sup>7</sup> *See T.L.*, Docket No. 18-0778 (issued January 22, 2020); *Roy L. Humphrey*, 57 ECAB 238, 241 (2005); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

<sup>8</sup> *J.F.*, Docket No. 18-0492 (issued January 16, 2020); *Jacqueline M. Nixon-Steward*, 52 ECAB 140 (2000).

<sup>9</sup> *A.M.*, Docket No. 18-0562 (issued January 23, 2020); *Leslie C. Moore*, 52 ECAB 132 (2000).

<sup>10</sup> *E.W.*, *supra* note 4; *Gary L. Fowler*, 45 ECAB 365 (1994).

## ANALYSIS

The Board finds that appellant has not met her burden of proof to establish a right hip condition causally related to the accepted factors of her federal employment.

In support of her claim, appellant submitted an April 5, 2017 report from Dr. Nusrat. Dr. Nusrat noted that appellant could not work more than eight hours per day, driving a mail truck, because of her severe back pain. She diagnosed chronic midline low back pain with sciatica. The Board has long held that pain is a symptom, not a compensable medical diagnosis.<sup>11</sup> Sciatica refers to pain along the sciatica nerve which runs from the lower back down the back of each leg. As such, sciatica is also a description of a symptom, not a compensable medical diagnosis.<sup>12</sup> Moreover, a medical opinion must explain how the implicated employment factors physiologically caused, contributed to, or aggravated the specific diagnosed conditions.<sup>13</sup> Lacking such an explanation, Dr. Nusrat's opinion is insufficient to meet appellant's burden of proof.<sup>14</sup>

Dr. Nusrat's remaining medical reports provided diagnoses of chronic right-sided low back pain with right-sided sciatica, degenerative disc disease of the lumbar spine, right hip pain, osteoarthritis of the right hip, neck sprain, and chronic neck pain. As noted, pain and sciatica are symptoms, not compensable medical diagnoses.<sup>15</sup> Additionally, Dr. Nusrat made no reference to appellant's employment and offered no opinion on causal relationship in these reports. The Board has held that 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>16</sup> These reports are therefore insufficient to establish her claim.

Appellant also submitted medical history records dated February 7, 2017 through March 4, 2019, which documented medical services, surgical history, allergies, and vital signs. None of these records offer an opinion on causal relationship. As such, they are also insufficient to establish appellant's claim.<sup>17</sup>

Appellant submitted multiple diagnostic studies including a February 17, 2017 MRI scan report on her lumbar spine and March 17, 2018 diagnostic test reports showing the results of a comprehensive metabolic panel, a 25-hydroxy vitamin D test, and a lipid panel. The Board has held, however, that diagnostic studies lack probative value on the issue of causal relationship as

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<sup>11</sup> *M.H.*, Docket No. 19-0162 (issued July 3, 2019).

<sup>12</sup> *See E.C.*, Docket No. 18-0274 (issued January 6, 2020).

<sup>13</sup> *C.M.*, Docket No. 19-0360 (issued February 25, 2020).

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

<sup>15</sup> *E.C.*, *supra* note 12.

<sup>16</sup> *A.M.*, Docket No. 19-1138 (issued February 18, 2020); *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

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

they do not address whether the implicated employment factors caused the diagnosed conditions.<sup>18</sup> Accordingly, these diagnostic studies are insufficient to establish appellant's claim.

As appellant has not submitted rationalized medical evidence explaining the causal relationship between her diagnosed right hip conditions and the accepted factors of her federal employment, the Board finds that she has not met her burden of proof.

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 a right hip condition causally related to the accepted factors of her federal employment.

### **ORDER**

**IT IS HEREBY ORDERED THAT** the July 17, 2019 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: April 28, 2020  
Washington, DC

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

Janice B. Askin, Judge  
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Alternate Judge  
Employees' Compensation Appeals Board

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<sup>18</sup> *L.J.*, Docket No. 19-1343 (February 26, 2020); *J.S.*, Docket No. 18-0657 (issued February 26, 2020).