

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

P.F., Appellant

and

**U.S. POSTAL SERVICE, PROCESSING &
DISTRIBUTION CENTER, Fort Worth, TX,
Employer**

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**Docket No. 19-0630
Issued: February 21, 2020**

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

Case Submitted on the Record

DECISION AND ORDER

Before:

PATRICIA H. FITZGERALD, Deputy Chief Judge
JANICE B. ASKIN, Judge
ALEC J. KOROMILAS, Alternate Judge

JURISDICTION

On January 22, 2019 appellant filed a timely appeal from a November 14, 2018 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act¹ (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.²

¹ 5 U.S.C. § 8101 *et seq.*

² The Board notes that, following the November 14, 2018 decision, OWCP received additional evidence. However, the Board's *Rules of Procedure* provides: "The Board's review of a case is limited to the evidence in the case record that was before OWCP at the time of its final decision. Evidence not before OWCP will not be considered by the Board for the first time on appeal." 20 C.F.R. § 501.2(c)(1). Thus, the Board is precluded from reviewing this additional evidence for the first time on appeal. *Id.*

ISSUE

The issue is whether appellant has met his burden of proof to establish a right inguinal hernia causally related to the accepted factors of his federal employment.

FACTUAL HISTORY

On September 24, 2018 appellant, then a 54-year-old mail handler assistant, filed an occupational disease claim (Form CA-2) alleging that he sustained a right inguinal hernia causally related to heavy lifting while in the course of his federal employment. The employing establishment controverted the claim, alleging that he had not established fact of injury, causation, or that he was injured while in the performance of duty.

On August 10, 2018 a physician assistant evaluated appellant for abdominal pain in the right lower quadrant and abdominal adhesions.

In a statement dated September 24, 2018, appellant related that his work duties of loading and moving bulk mail required heavy lifting, pushing, and pulling. He asserted that he experienced swelling on the right side near his groin after his work shift, beginning in June 2018. Appellant advised that his symptoms progressively worsened and that his physician had diagnosed a hernia due to heavy lifting. He indicated that he was scheduled for surgery on October 1, 2018.

In a disability certificate dated September 21, 2018, Dr. Suhail Sharif, a Board-certified surgeon, advised that appellant was unable to work from October 1 to November 2, 2018 due to “needed surgery for a job[-]related injury caused by everyday heavy lifting.”

On October 1, 2019 the employing establishment again controverted the claim, contending that the medical evidence submitted failed to establish that appellant had sustained an employment-related condition.

In an October 10, 2018 development letter, OWCP notified appellant of the type of evidence needed to establish his occupational disease claim, including medical evidence explaining how his employment activities resulted in a diagnosed medical condition. It afforded him 30 days to submit the requested evidence.

On October 11, 2018 Dr. Sharif diagnosed a right indirect inguinal hernia. He advised that surgery was medically necessary due to appellant’s pain.

By decision dated November 14, 2018, OWCP denied appellant’s occupational disease claim. It found that the medical evidence of record was insufficient to establish a right inguinal hernia causally related to the accepted employment factor of heavy lifting.³

³ OWCP identified the issues as both performance of duty and causal relationship; however, it addressed causal relationship in its analysis.

LEGAL PRECEDENT

An employee seeking benefits under FECA⁴ has the burden of proof to establish the essential elements of his or her claim, including 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,⁵ 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.⁶ 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.⁷

In an occupational disease claim, appellant's burden requires submission of 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 employment factors identified by the employee.⁸

Causal relationship is a medical issue, and the medical evidence required to establish causal relationship is rationalized medical opinion evidence.⁹ 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.¹⁰

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish a right inguinal hernia causally related to the accepted factors of his federal employment.

On September 21, 2018 Dr. Sharif found that appellant was disabled from work for the period October 1 to November 2, 2018. He opined that appellant required surgery due to an employment injury caused by heavy lifting. Dr. Sharif, however, did not provide a diagnosis or

⁴ *Supra* note 1.

⁵ *S.B.*, Docket No. 17-1779 (issued February 7, 2018); *J.P.*, 59 ECAB 178 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

⁶ *J.M.*, Docket No. 17-0284 (issued February 7, 2018); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

⁷ *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).

⁸ *S.C.*, Docket No. 18-1242 (issued March 13, 2019); *R.H.*, 59 ECAB 382 (2008).

⁹ *A.M.*, Docket No. 18-1748 (issued April 24, 2019); *T.H.*, 59 ECAB 388 (2008).

¹⁰ *M.V.*, Docket No. 18-0884 (issued December 28, 2018); *I.J.*, 59 ECAB 408 (2008).

explain the process by which heavy lifting resulted in an injury.¹¹ A medical opinion must provide an explanation of how the specific employment factors physiologically caused or aggravated a diagnosed condition.¹² As Dr. Sharif's opinion is conclusory and unexplained, it is insufficient to meet appellant's burden of proof to establish his claim.¹³

On October 11, 2018 Dr. Sharif diagnosed a right indirect inguinal hernia and advised that appellant's surgery was necessary due to his pain. He did not address the cause of the diagnosed condition. 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.¹⁴

On August 10, 2018 a physician assistant found that appellant had abdominal pain in the right lower quadrant and abdominal adhesions. However, certain healthcare providers such as physician assistants, nurse practitioners, physical therapists, and social workers are not considered "physician[s]" as defined under FECA.¹⁵ Consequently, their medical findings and/or opinions will not suffice for purposes of establishing entitlement to FECA benefits.¹⁶

On appeal appellant asserts that he had submitted the evidence necessary to establish his claim, including medical evidence supporting that his job duties caused his hernia. As discussed, however, the medical evidence of record is insufficient to establish that his employment duties caused or contributed to his right inguinal hernia. Appellant has not submitted rationalized medical evidence sufficient to establish causal relationship, and thus has not met his burden of proof to establish his occupational disease claim.¹⁷

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 his burden of proof to establish that he sustained a right inguinal hernia causally related to the accepted factors of his federal employment.

¹¹ *A.P.*, Docket No. 19-1158 (issued October 29, 2019).

¹² *A.H.*, Docket No. 19-0270 (issued June 25, 2019); *M.W.*, Docket No. 18-1624 (issued April 3, 2019).

¹³ *Id.*

¹⁴ *See J.H.*, Docket No. 19-0838 (issued October 1, 2019); *S.G.*, Docket No. 19-0041 (issued May 2, 2019); *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

¹⁵ 5 U.S.C. § 8101(2); 20 C.F.R. § 10.5(t).

¹⁶ *D.L.*, Docket No. 19-1053 (issued January 8, 2020); *J.T.*, Docket No. 18-0664 (issued August 12, 2019).

¹⁷ *C.M.*, Docket No. 19-0264 (issued December 19, 2019).

ORDER

IT IS HEREBY ORDERED THAT the November 14, 2018 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: February 21, 2020
Washington, DC

Patricia H. Fitzgerald, Deputy Chief Judge
Employees' Compensation Appeals Board

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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