

ISSUE

The issue is whether appellant has met his burden of proof to establish lumbar, right hip, and left knee conditions causally related to the accepted factors of his federal employment.

FACTUAL HISTORY

On October 14, 2017 appellant, then a 59-year-old letter carrier, filed an occupational disease claim (Form CA-2) alleging that he developed degenerative conditions of the spine, right hip, and left knee due to carrying a heavy mail satchel, repetitive lifting and bending, prolonged walking, and climbing stairs while in the performance of duty on or before September 16, 2011. On the reverse side of the claim form, Postmaster F.R., indicated that appellant had never expressed that his position as a letter carrier had caused any of his medical issue, but instead attributed his condition to his Parkinson's disease. It was also noted that appellant had been out on Family and Medical Leave Act since August 12, 2017, contemplating retirement on November 30, 2017 and he had been assigned a driving route for the three years prior to the date he stopped working. Appellant retired on November 30, 2017.

In a December 5, 2017 controversion letter, Postmaster F.R., again contended that appellant had never mentioned that his federal employment caused his injuries and that it was his Parkinson's disease causing his physical issues. Additionally, it was noted that he worked a second job in the private sector, simultaneous with his federal employment, for years.

In a development letter dated December 20, 2017, OWCP advised appellant of the deficiencies of his claim and instructed him as to the factual and medical evidence necessary to establish his claim. It afforded him 30 days to submit additional evidence and respond to its inquiries.

In response, appellant submitted a February 23, 2018 narrative statement. He asserted that walking six to eight miles a day with frequent stair climbing in the performance of duty had caused knee, back, and hip conditions. Dr. Alvin Ong, a Board-certified orthopedic surgeon, performed a total left knee arthroplasty in August 2011. In 2013, appellant experienced lumbar symptoms and hip pain. Dr. Zachary Post, a Board-certified orthopedic surgeon, performed a total right hip arthroplasty in November 2014. Dr. Paul Marcotte, a Board-certified neurosurgeon, performed an L3, L4, and L5 laminectomy in 2017. Appellant submitted additional evidence.

In an April 13, 2017 letter, Postmaster F.R., confirmed that appellant's job duties required carrying up to 35 pounds continuously, with driving, walking, climbing steps, bending, stooping, twisting, and kneeling up to eight hours a day.

In a May 1, 2017 report, Dr. Maureen Gottfried, an osteopathic physician Board-certified in neurology and psychiatry, found appellant able to perform the primary functions of his letter carrier position.

In a December 20, 2017 report, Dr. Jerald P. Vizzone, an osteopathic physician Board-certified in orthopedic surgery, noted that, since 1987, appellant had worked various postal delivery routes, causing "progressive injury due to wear and tear of [appellant's] left knee, right

hip, and low back.” Appellant underwent a total left knee arthroplasty on August 1, 2011 a total left right hip arthroplasty on November 6, 2014, and lumbar surgery in August 2017. Dr. Vizzone diagnosed acute bilateral L5-S1 radiculopathy as demonstrated by a February 2017 electrodiagnostic study, internal derangement of the left knee, left meniscal tear, left knee osteoarthritis, lumbar degeneration, severe lumbar stenosis from L2 through S1, most severe at L4-5, internal derangement and osteoarthritis of the right hip, and status post total left knee arthroplasty. He opined that the diagnosed conditions were directly causally related “to the significant wear and tear related to [appellant’s] job demands” as a letter carrier.

By decision dated February 26, 2018, OWCP accepted that the identified work factors had occurred as alleged, but denied the claim as causal relationship had not been established.

In a letter postmarked March 5, 2018, appellant, through counsel, requested an oral hearing before a representative of OWCP’s Branch of Hearings and Review, held on July 25, 2018. During the hearing, counsel contended that Dr. Vizzone’s opinion was of sufficient probative value to warrant further development. Appellant submitted additional evidence.

In a February 8, 2018 statement, appellant attributed his physical deterioration to wear and tear caused by his postal duties, with no contribution from private sector employment or Parkinson’s disease.

In a July 20, 2011 report, Dr. Ong noted appellant’s employment as a letter carrier, with a history of left knee arthroscopy in November 2010 and right knee arthroscopy on an unspecified date. He diagnosed end-stage degenerative joint disease (DJD) of the left knee and mild DJD of the right knee. Dr. Ong performed a total left knee arthroplasty on August 1, 2011. In an August 2, 2011 progress note, he indicated that appellant had a “long history” of DJD of the left knee, with a recent increase of symptoms.

In an October 16, 2013 report, Dr. Alan S. Hilibrand, a Board-certified orthopedic surgeon, noted an eight-year history of lumbar pain, with increased symptoms during the previous five months when carrying a mail satchel while at work. Chiropractic manipulation reduced his pain symptoms and right-sided radiculopathy. Dr. Hilibrand diagnosed spinal stenosis and recommended additional physical therapy. He provided a February 5, 2014 follow-up report noting that an epidural injection had reduced appellant’s pain symptoms.

Dr. Gottfried provided an April 11, 2016 report noting the gradual onset of a rhythmic right upper extremity tremor and gait disturbance seven months previously. She diagnosed akinetic rigid syndrome. In a February 28, 2017 electromyography and nerve conduction velocity study report, Dr. Gottfried noted a sensory motor axonopathy with secondary demyelination affecting both lower extremities. She also diagnosed acute bilateral L5-S1 radiculopathy.

In an October 12, 2017 report, Dr. Marcotte noted a normal postoperative course following L3, L4, and L5 laminectomies performed on August 25, 2017 with a series of routine checks performed by Benjamin G. Hurtig, a physician assistant.

Appellant retired from the employing establishment effective November 30, 2017.

By decision dated October 5, 2018, an OWCP hearing representative affirmed the February 26, 2018 decision, finding that the medical evidence of record was insufficient to establish causal relationship.

On November 15, 2018 appellant, through counsel, requested reconsideration and submitted a September 28, 2018 report by Dr. Zachary D. Post, an associate of Dr. Hilibrand. Dr. Post indicated that he first examined appellant on September 24, 2014 for complaints of right hip pain, which appellant attributed to carrying a mail satchel up and down stairs while in the performance of duty. X-rays demonstrated advanced osteoarthritis of the right hip. At that time, Dr. Post opined that repetitive work activities, “including lifting and carrying the mailbag over a course of 30 years contributed to the advanced degeneration of his right hip.” He further noted that appellant underwent a total right hip arthroplasty on November 6, 2014 and after presenting with lumbar pain on December 9, 2014 he was diagnosed with degenerative disc disease. Dr. Post explained that on June 27, 2018 he diagnosed osteoarthritis of the right knee and administered an intraarticular injection and a magnetic resonance imaging scan revealed a small medial meniscal tear with degenerative changes throughout the knee. He concluded by opining that within a reasonable degree of medical certainty, appellant’s “right hip arthritis, which ultimately led to [appellant’s] replacement, had been exacerbated and was a direct reflection” of work activities including “walking multiple miles a day, carrying a heavy bag, and going up and down stairs certainly would have contributed to the advanced degeneration of his right hip.”

By decision dated February 13, 2019, OWCP denied modification of its prior decision.

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,³ 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.⁴ 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.⁵

To establish that an injury was sustained in the performance of duty in an occupational disease claim, an employee 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

³ *S.B.*, Docket No. 17-1779 (issued February 7, 2018); *J.P.*, 59 ECAB 178 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

⁴ *J.M.*, Docket No. 17-0284 (issued February 7, 2018); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

⁵ *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).

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.⁶

Causal relationship is a medical question that requires rationalized medical opinion evidence to resolve the issue.⁷ A physician's opinion on whether there is causal relationship between the diagnosed condition and the implicated employment factors must be based on a complete factual and medical background.⁸ Additionally, the physician's opinion must be expressed in terms of a reasonable degree of medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and appellant's specific employment factors.⁹

In any case where a preexisting condition involving the same part of the body is present and the issue of causal relationship therefore involves aggravation, acceleration, or precipitation, the physician must provide a rationalized medical opinion that differentiates between the effects of the work-related injury or disease and the preexisting condition.¹⁰

ANALYSIS

The Board finds that appellant has met not his burden of proof to establish lumbar, right hip, and left knee conditions causally related to the accepted factors of his federal employment.

In reports from July 20 through August 2, 2011, Dr. Ong noted appellant's federal employment as a letter carrier with a long history of DJD of the left knee, with a recent increase in symptoms. Dr. Gottfried submitted reports dated from April 11, 2016 through February 28, 2017 which diagnosed akinetic rigid syndrome, sensory and motor axonopathy of the bilateral lower extremities with secondary demyelination, and acute bilateral L5-S1 radiculopathy. In an October 12, 2017 report, Dr. Marcotte noted a normal postoperative course following August 25, 2017 lumbar laminectomies. However, these physicians did not address whether the accepted work factors had caused or contributed to the diagnosed conditions. 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.¹¹ These reports therefore are insufficient to establish appellant's claim.

⁶ *M.L.*, Docket No. 19-0813 (issued November 26, 2019); *R.G.*, Docket No. 19-0233 (issued July 16, 2019). See also *Roy L. Humphrey*, 57 ECAB 238, 241 (2005); *Ruby I. Fish*, 46 ECAB 276, 279 (1994); *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁷ *T.H.*, 59 ECAB 388, 393 (2008); *Robert G. Morris*, 48 ECAB 238 (1996).

⁸ *M.V.*, Docket No. 18-0884 (issued December 28, 2018).

⁹ *M.L.*, *supra* note 6; *M.V.*, *id.*; *Victor J. Woodhams*, *supra* note 6.

¹⁰ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3e (January 2013); *N.C.*, Docket No. 19-1191 (issued December 19, 2019); *R.D.*, Docket No. 18-1551 (issued March 1, 2019).

¹¹ *M.L.*, *supra* note 6; *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018). *J.B.*, Docket No. 17-2021 (issued August 8, 2018).

Dr. Hilibrand noted on October 16, 2013 that carrying a mail satchel had aggravated appellant's lumbar pain symptoms, but did not indicate if the accepted work factors had affected the diagnosed lumbar degenerative disease. The Board has held that a report is of limited probative value regarding causal relationship if it does not contain medical rationale explaining how a given medical condition/disability was related to employment factors.¹² Additionally, the Board has held that pain is a symptom and not a compensable medical diagnosis.¹³ Therefore, this report is insufficient to establish appellant's claim.

In a December 20, 2017 report, Dr. Vizzone opined that appellant's duties as a letter carrier caused progressive injury due to significant wear and tear of his left knee, right hip, and low back. Similarly, Dr. Post asserted in his September 28, 2018 report that the accepted work factors of walking, carrying a mail satchel, and climbing stairs exacerbated and directly contributed to appellant's right hip arthritis. As noted above, the Board has held that a report is of limited probative value regarding causal relationship if it does not contain medical rationale explaining how a given medical condition/disability was related to employment factors.¹⁴ Therefore, these reports are also insufficient to establish appellant's claim.

OWCP also received several imaging and electrodiagnostic study reports. The Board has held that reports of diagnostic tests lack probative value as they do not provide an opinion on causal relationship between the accepted employment factors and a diagnosed condition.¹⁵

As appellant has not submitted rationalized medical evidence sufficient to establish an injury causally related to the accepted employment incident, the Board finds that he has not met his burden of proof.

On appeal, counsel contends that Dr. Post's opinion is sufficiently rationalized to establish causal relationship. As noted above, Dr. Post did not explain with rationale how and why the accepted work factors would have caused or aggravated the diagnosed conditions.

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 lumbar, right hip, and left knee conditions causally related to the accepted factors of his federal employment.

¹² See *Y.D.*, Docket No. 16-1896 (issued February 10, 2017).

¹³ *T.G.*, 19-0904 (issued November 25, 2019); *R.C.*, Docket No. 19-0376 (issued July 15, 2019).

¹⁴ *Supra* note 12.

¹⁵ See *C.F.*, Docket No. 18-1156 (issued January 22, 2019); *M.M.*, Docket No. 19-0061 (issued November 21, 2019).

ORDER

IT IS HEREBY ORDERED THAT the February 13, 2019 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: February 7, 2020
Washington, DC

Patricia H. Fitzgerald, Deputy 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