

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

_____)	
B.W., Appellant)	
)	
and)	Docket No. 18-1674
)	Issued: May 7, 2020
DEPARTMENT OF THE NAVY, NAVAL)	
MEDICAL CENTER PORTSMOUTH,)	
Portsmouth, VA, 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
PATRICIA H. FITZGERALD, Alternate Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On September 4, 2018 appellant filed a timely appeal from a May 3, 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

ISSUE

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

¹ 5 U.S.C. § 8101 *et seq.*

² The Board notes that following the May 3, 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.*^{appeal}

FACTUAL HISTORY

On April 13, 2017 appellant, then a 53-year-old secretary, filed an occupational disease claim (Form CA-2) alleging that she developed bilateral carpal tunnel syndrome in 2004 and pain in her right hip, groin and lower back due to prolonged sitting at work. She further noted that she strained her back and hip as she stood to scan documents. Appellant indicated that she first became aware of her condition on March 27, 2017 and realized its relation to her federal employment on April 13, 2017. She was last exposed to the conditions alleged to have caused her illness on April 13, 2017, which is the date she stopped work.

In support of her claim, appellant submitted a patient work form dated April 13, 2017 in which Dr. Arthur W. Wardell, Board-certified in orthopedic surgery, indicated that she should remain off work until reevaluated in one week. He diagnosed sacroiliac sprain, lumbosacral sprain, and right hip sprain and recommended that appellant have x-rays of the pelvis and lumbar spine.

In a development letter dated April 24, 2017, OWCP requested that appellant submit additional factual and medical evidence, including a comprehensive medical report from her physician regarding how specific work factors contributed to her claimed conditions. It forwarded a questionnaire for her completion and asked her to clarify whether she was claiming an occupational disease or a traumatic injury. OWCP afforded appellant 30 days to submit the necessary evidence.

In a statement dated May 10, 2017, appellant indicated that she was filing an occupational disease claim because prolonged sitting at her desk at work, which occurred over more than one workday, had caused right hip and low back strains. She described the March 27, 2017 episode, indicating that after prolonged sitting, preparing, and sorting stacks of health records and documents to be scanned, she stood up and experienced a sharp pain in her right hip and lower back, and a burning sensation down her leg and groin area. Appellant indicated that her position required sitting 50 percent of the time, and maintained that her right hip, low back, buttocks, and groin conditions were due to performing a sedentary job for over 29 years.

In an April 13, 2017 treatment note, Dr. Wardell provided a history that appellant had injured her low back and right hip at work on March 27, 2017 when she was getting up from a chair and had sudden sharp pain in her back that radiated to her right hip and down the right leg. He noted current complaints of burning and throbbing back, buttock, and right groin pain. Examination findings included limited right hip flexion, and tenderness in the right inguinal, trochanteric, sacroiliac, and paralumbar areas. Dr. Wardell indicated that x-rays of the pelvis and lumbar spine revealed no abnormalities and diagnosed sacroiliac ligament sprain, lumbar back sprain, and right hip strain. He prescribed pain medication and physical therapy.

In reports dated April 21, 2017, Dr. Wardell repeated his diagnoses and advised that appellant could not return to work until reevaluated in four weeks. On attending physician's reports (Form CA-20) dated April 21 and May 19, 2017, he reiterated his diagnoses. Dr. Wardell additionally checked a box marked "yes" indicating that the conditions were caused or aggravated by an employment activity, and indicated that appellant was totally disabled from work for the period April 14 to May 19, 2017. In an additional May 19, 2017 report, he indicated that an

April 26, 2017 magnetic resonance imaging (MRI) scan of the right hip demonstrated a questionable mass within the gluteal muscle.

On May 11, 2017 Dr. Lindsay J. Lipinski, acting head of neurosurgery and appellant's supervisor, wrote that she concurred with appellant's statements that her sedentary job duties of scanning, typing, sitting, and walking were the leading cause of the injury. She opined that prolonged sitting and muscle strain were easily provoked at appellant's desk. Dr. Lipinski indicated that to minimize the effects of her job duties, the employing establishment allowed appellant to take breaks as necessary and had provided a standing desk. He submitted copies of a position description for a secretary and photographs of appellant's desk area.

By decision dated June 12, 2017, OWCP denied appellant's claim finding that the evidence of record was insufficient to establish that the events occurred as described. It explained that the statements appellant had provided were unclear, as she wrote that she was claiming an occupational disease, but also indicated that she was injured on March 27, 2017 while getting up from a chair.

On July 26, 2017 appellant requested reconsideration. In a separate statement, she indicated that when completing the Form CA-2, she incorrectly listed her carpal tunnel syndrome information. Appellant noted that she already had a claim for that condition, and that the Form CA-2 was for the hip injury on March 27, 2017.

Additional medical evidence submitted included an April 26, 2017 report of a right hip MRI scan that demonstrated no acute osseous abnormalities with no significant degenerative changes of the hip joints bilaterally, no evidence for avascular necrosis, and no labral or tendon tears. A right gluteus maximus muscle mass and mild degenerative changes of the left sacroiliac joint were noted.

In a May 19, 2017 treatment note, Dr. Wardell described examination findings and noted that appellant was given a right trochanteric bursal injection. He next saw appellant on June 23, 2017. Following physical examination, Dr. Wardell opined that appellant's symptoms were due to the employment injury that occurred on March 27, 2017. He reiterated his diagnoses, performed a trigger point injection, and advised that appellant remained totally disabled. On CA-20 forms dated June 23, June 29, and July 20, 2017, Dr. Wardell repeated his diagnoses, reported a history that appellant felt a sharp pain in her back when getting up from her chair. He checked a box marked "yes" indicating that the diagnosed conditions were caused or aggravated by an employment activity and that appellant was totally disabled from work. In a work capacity evaluation (Form OWCP-5c) dated June 23, 2017, Dr. Wardell advised that appellant was unable to perform her usual job due to right hip strain, sacroiliac sprain, and lumbar back sprain. In a form report dated June 23, 2017, he noted appellant's complaints of back, buttock, and right groin pain, and advised that she could not work due to intense pain. Dr. Wardell reiterated his diagnoses and reported that she was unable to stand, bend, walk, carry items, or sit for prolonged periods. He indicated that her condition commenced on March 27, 2017 with a probable duration of one year. In a duty status report (Form CA-17) dated June 29, 2017, Dr. Wardell reported clinical findings and advised that appellant could not work. In a July 20, 2017 Form CA-17 report, he advised that appellant could return to work for four hours a day on July 31, 2017, sitting duty only.

The record indicates that appellant returned to full-time modified-duty work on August 1, 2017.

By decision dated October 20, 2017, OWCP modified the June 12, 2017 decision to reflect that appellant had established that the alleged work factors occurred as described. It denied the claim, however, finding that the evidence of record was insufficient to establish that the claimed conditions were causally related to the accepted factors of her employment.

On November 20, 2017 appellant requested reconsideration.

In support thereof, appellant submitted a November 2, 2017 report in which Dr. Wardell repeated a history that appellant's injury occurred on March 27, 2017 when she suddenly got up from a chair and tore the gluteus medius tendon, which caused a right hip strain, lumbar strain, and right sacroiliac joint sprain. Dr. Wardell reported that appellant's work duties required prolonged sitting with postural adjustments that predisposed her to these injuries. He opined that it was this one incident that caused her lumbar strain, right sacroiliac joint sprain, right hip strain, and right sciatica.

By decision dated November 30, 2017, OWCP denied modification of its October 20, 2017 decision.

Appellant again requested reconsideration on February 5, 2018. She indicated that she remained symptomatic and needed further treatment.

Medical evidence submitted included reports from Dr. Wardell dated June 29 to December 29, 2017 in which he reiterated his findings and conclusions.

In a November 3, 2017 treatment note, Dr. Blane Kelly, a Board-certified orthopedic surgeon, noted an eight-month history of right hip and gluteal pain that started while appellant was moving from sitting to a standing position at work. He reported that she was not currently working and that she had been treated with multiple injections that gave brief relief, but that her pain has worsened. Dr. Kelly noted that appellant reported that most of her pain was at the mid portion of her right gluteus with some radiation into her groin and down to her thigh. He described examination findings of tenderness to palpation over the right mid portion of the gluteal region without a palpable mass present, and noted that the focal tenderness found did correlate with imaging. Dr. Kelly reviewed the MRI scan and advised that it showed a roughly five by three centimeter mass within the gluteus maximus, fibers on the right with signal intensity on T1 and T2, consistent with a myxoid tumor. He opined that this myxoid tumor in appellant's right gluteal muscle was the likely source of pain in her gluteal region, but unlikely related to her groin pain and thigh pain. Dr. Kelly recommended surgical excision of the tumor.

In correspondence dated January 9, 2018, Dr. Wardell noted that he had been treating appellant for a March 27, 2017 employment injury. He referenced his letters dated July 3 and November 2, 2017, and opined, to a reasonable degree of medical certainty, that there was a causal relationship between her symptoms and the March 27, 2017 injury. Dr. Wardell wrote that appellant explained that she had been sitting in an old office chair for a prolonged period of time when she stood from the sitting position and that pain in the low back, right hip, buttocks, and groin areas began. He opined that her work activities, which required prolonged sitting and

postural adjustments, predisposed her to these injuries, but that it was the one incident on March 27, 2017 that caused her lumbar strain, right sacroiliac sprain, right hip strain, and right sciatica. Dr. Wardell indicated that appellant could not work and requested that the denial of her claim be reversed.

By decision dated May 3, 2018, OWCP denied modification of its prior decisions.

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 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 The opinion of the physician must be based on a complete factual and medical background, 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 incident.⁸

ANALYSIS

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

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).

⁶ *L.C.*, Docket No. 19-1301 (issued January 29, 2020).

⁷ *D.L.*, Docket No. 19-1053 (issued January 8, 2020).

⁸ *D.J.*, Docket No. 19-1301 (issued January 29, 2020).

Appellant submitted a series of reports from Dr. Wardell dated April 13, 2017 to January 9, 2018. Dr. Wardell reported a history that appellant injured her low back and right hip at work on March 27, 2017 while rising from a chair and diagnosed lumbar strain, right sacroiliac sprain, right hip strain, and right sciatica. He submitted several Form CA-20 reports in which he checked a box marked “yes,” without further comment, indicating that the diagnosed conditions of lumbar, right hip, and sacroiliac sprains were caused or aggravated by employment. The Board has held that when a physician’s opinion on causal relationship consists only of checking “yes” to a form question, without explanation or rationale, that opinion is of diminished probative value and is insufficient to establish a claim.⁹ These reports are therefore insufficient to meet appellant’s burden of proof.

In his January 9, 2018 correspondence, Dr. Wardell opined that appellant’s work activities, which required prolonged sitting and postural adjustments, predisposed her to these conditions, but that it was the one incident on March 27, 2017 that caused the lumbar strain, right sacroiliac sprain, right hip strain, and right sciatica. Although Dr. Wardell provided a conclusory opinion on causal relationship, he did not provide an explanation of the mechanics of how the March 27, 2017 incident or the accepted factors of employment caused appellant’s diagnosed conditions. He did not provide a pathophysiological explanation as to how the accepted factors either caused or contributed to her diagnosed conditions. The Board has held that a medical opinion is of limited value if it is conclusory in nature.¹⁰ A medical opinion must provide rationale explaining how the implicated employment factors physiologically caused, contributed to, or aggravated the specific diagnosed conditions.¹¹ Without this explanation, Dr. Wardell’s reports are insufficient to meet appellant’s burden of proof to establish her occupational disease claim.¹²

Dr. Kelly, who saw appellant on November 3, 2017, reviewed the April 26, 2017 MRI scan and advised that the mass seen was a myxoid tumor in appellant’s right gluteal muscle. He opined that this was the likely source of pain in her gluteal region and that the pain was unlikely related to her employment. The Board has held that medical evidence that negates causal relationship is of no probative value.¹³ Dr. Kelly’s report is, therefore, insufficient to meet appellant’s burden of proof.

Finally, appellant submitted several diagnostic testing reports. The Board has held that, standing alone, diagnostic studies lack probative value on the issue of causal relationship as they do not address whether the employment factors caused the diagnosed conditions.¹⁴

⁹ *M.G.*, Docket No. 18-1616 (issued April 9, 2020); *Sedi L. Graham*, 57 ECAB 494 (2006); *D.D.*, 57 ECAB 734 (2006).

¹⁰ *C.M.*, Docket No. 19-0360 (issued February 21, 2020); *see Mary A. Ceglia*, 55 ECAB 626 (2004).

¹¹ *Id.*

¹² *R.S.*, Docket No. 19-1774 (issued April 3, 2020).

¹³ *T.W.*, Docket No. 19-0677 (issued August 16, 2019).

¹⁴ *P.L.*, Docket No. 19-1750 (issued March 26, 2020).

As the medical evidence of record is insufficient to establish causal relationship between her diagnosed condition and the accepted factors of her federal employment, the Board finds that appellant has not met her burden of proof.

On appeal appellant asserts that she submitted sufficient evidence to establish that she developed an occupational disease causally related to employment factors. However, as noted above, she has not submitted rationalized opinion evidence from a physician explaining the causal relationship between her diagnosed lumbar strain, right sacroiliac sprain, right hip strain, and right sciatica and the accepted factors of employment. Thus appellant 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 medical condition causally related to the accepted factors of her federal employment.

ORDER

IT IS HEREBY ORDERED THAT the May 3, 2018 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: May 7, 2020
Washington, DC

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

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

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board