United States Department of Labor
Employees' Compensation Appeals Board

T.S., Appellant	)	
and	)	**Docket No. 19-0717**
	)	**Issued: May 22, 2020**
U.S. POSTAL SERVICE, POST OFFICE, Providence, RI, 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 February 19, 2019 appellant filed a timely appeal from a November 21, 2018 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act[1] (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction to consider the merits of this case.[2]

ISSUE

The issue is whether appellant has met his burden of proof to establish a medical condition causally related to the accepted October 6, 2018 employment incident.

[1] 5 U.S.C. § 8101 *et seq.*

[2] The Board notes that following the November 21, 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*.

FACTUAL HISTORY

On October 7, 2018 appellant, then a 56-year-old mail handler, filed a traumatic injury claim (Form CA-1) alleging that on October 6, 2018 he strained his abdomen lifting a heavy bucket out of a general purpose mail container while in the performance of duty. On the reverse side of the claim form, the employing establishment indicated that he had stopped work on October 6, 2018 and received medical treatment.

In an October 7, 2018 work excuse, a health care provider with an illegible signature indicated that appellant had visited the emergency department on that date and could return to work on October 11, 2018 with a limitation of not lifting over 10 pounds.

In a development letter dated October 17, 2018, OWCP advised appellant that additional evidence was required to establish his claim. It requested that he submit additional factual and medical evidence, including a comprehensive narrative medical report from a qualified physician that included a diagnosis and an opinion, supported by medical rationale, addressing how the claimed employment incident caused or aggravated a medical condition. OWCP attached a questionnaire for his completion. It afforded appellant 30 days to submit the necessary evidence.

Subsequently OWCP received October 7, 2018 emergency treatment notes by Dr. Ilse Jenouri, an emergency medicine specialist. Dr. Jenouri evaluated appellant for right groin pain that had begun after he lifted a heavy bucket around midnight.[3] She noted that he a history of bilateral inguinal hernias, including a fatty hernia a year ago and a hernia repair when he was two years old. On examination Dr. Jenouri found fullness in the right inguinal canal that was "tender to palpation and with pressure while attempting to reduce." She diagnosed a bilateral recurrent inguinal hernia without obstruction or gangrene. Dr. Jenouri noted that appellant had experienced similar symptoms a year earlier and referred him for a computerized tomography (CT) scan.

A CT scan of appellant's abdomen and pelvis obtained on October 7, 2018, and interpreted by Dr. Julie Song, a Board-certified diagnostic radiologist, revealed a right inguinal hernia containing fat that was "suspicious for either current or recent incarceration" and a smaller left inguinal hernia.

On October 7, 2018 Dr. Jamsheed Vakharia, a Board-certified surgeon, obtained appellant's history and performed a physical examination. He noted that appellant had a history of bilateral inguinal hernia and that he had experienced "increased [right] groin pain after lifting a heavy box yesterday." An examination revealed pain and swelling of the right groin. Dr. Vakharia also noted that appellant had a left-sided hernia containing fat that had been present for a year. He recommended an elective repair of bilateral inguinal hernias containing fat and instructed him to avoid heavy lifting.

In an October 11, 2018 form report, Dr. Vakharia diagnosed a bilateral inguinal hernia and advised that on October 19, 2018 he planned to perform a robotic assistance laparoscopic bilateral inguinal hernia repair. He advised that he had evaluated appellant on an emergency basis on October 7, 2018 for pain in the right groin after lifting a heavy object at work. Dr. Vakharia noted

[3] Appellant's regular duty hours were from 9:00 p.m. until 5:30 a.m.

that at a follow-up visit on October 11, 2018 appellant had complained of pain and tenderness in his right groin and intermittent pain in his left groin in addition to feeling pressure on his right and left groin after eating.

On October 16, 2018 Dr. Vakharia requested approval for medically necessary surgery scheduled for October 19, 2018.

In a duty status report (Form CA-17) dated October 18, 2018, Dr. Vakharia diagnosed a bilateral inguinal hernia and found that appellant was unable to perform his usual employment duties. He checked a box marked "yes" indicating that the history of injury corresponded to the diagnosed conditions due to an abdominal strain.

Appellant returned to full-time work without restrictions on October 29, 2018.

In a November 1, 2018 report, Dr. Vakharia indicated that he had seen appellant on October 29, 2018 for a postoperative visit following his October 19, 2019 hernia repair surgery. He found that appellant was healing well and advised that he should refrain from strenuous physical activity and heavy lifting for up to a month.

By decision dated November 21, 2018, OWCP denied appellant's traumatic injury claim. It found that the medical evidence of record was insufficient to establish causal relationship between a diagnosed medical condition and the accepted October 6, 2018 employment incident.

LEGAL PRECEDENT

An employee seeking benefits under FECA[4] 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,[5] 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.[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]

To determine if an employee has sustained a traumatic injury in the performance of duty, OWCP begins with an analysis of whether fact of injury has been established.[8] Fact of injury consists of two components that must be considered in conjunction with one another. The first

[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.S.*, Docket No. 18-1488 (issued March 11, 2019); *T.H.*, 59 ECAB 388 (2008).

component is whether the employee actually experienced the employment incident that allegedly occurred.[9] The second component is whether the employment incident caused a personal injury.[10]

Causal relationship is a medical issue, and the medical evidence required to establish causal relationship is rationalized medical evidence.[11] 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 employee.[12] 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.[13]

In a 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.[14]

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish a medical condition causally related to the accepted October 6, 2018 employment incident.

In a emergency treatment report dated October 7, 2018, Dr. Jenouri reviewed appellant's complaints of pain in his right groin after lifting a heavy bucket. She noted that he had a history of bilateral inguinal hernias. Dr. Jenouri diagnosed a bilateral recurrent inguinal hernia without obstruction or gangrene. On October 7, 2018 Dr. Vakharia also obtained a history of appellant experiencing increased pain in his right groin after lifting a heavy box the day before, and reviewed his history of bilateral inguinal hernias. He recommended a surgical repair. While both physicians provided a history of the accepted employment incident, neither specifically addressed the cause of the diagnosed bilateral hernias. 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.[15] Therefore, these reports are insufficient to establish appellant's claim.

In a form report dated October 11, 2018, Dr. Vakharia advised that he had evaluated appellant on October 7, 2018 for groin pain after he lifted a heavy object at work. He indicated

[9] *E.M.*, Docket No. 18-1599 (issued March 7, 2019); *Elaine Pendleton*, 40 ECAB 1143 (1989).

[10] *M.H.*, Docket No. 18-1737 (issued March 13, 2019); *John J. Carlone*, 41 ECAB 354 (1989).

[11] *L.D.*, Docket No. 17-1581 (issued January 23, 2018); *Jacqueline M. Nixon-Steward*, 52 ECAB 140 (2000).

[12] *L.D.*, *id.*; *see also Leslie C. Moore*, 52 ECAB 132 (2000); *Gary L. Fowler*, 45 ECAB 365 (1994).

[13] *T.H.*, Docket No. 18-1736 (issued March 13, 2019); *Dennis M. Mascarenas*, 49 ECAB 215 (1997).

[14] Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3e (January 2013).

[15] *C.S.*, Docket No. 18-1633 (issued December 30, 2019); *R.C.*, Docket No. 19-0376 (issued July 15, 2019).

that appellant was scheduled for a bilateral inguinal hernia repair. Again, however, while Dr. Vakharia noted the history of the accepted employment incident, he failed to specifically address causation, and thus his opinion is insufficient to meet appellant's burden of proof.[16]

In an October 18, 2018 Form CA-17 report, Dr. Vakharia diagnosed a bilateral inguinal hernia and found that appellant was unable to work. On the report, Dr. Vakharia checked the box marked "yes" indicating that the diagnosed conditions corresponded to the history of the employment incident. The Board has held, however, that when a physician's opinion on causal relationship consists only of checking "yes" to a form question, without explanation or rationale, that opinion has little probative value and is insufficient to establish a claim.[17]

The remaining medical evidence also fails to address causal relationship. On October 16, 2018 Dr. Vakharia requested approval for medically necessary surgery scheduled for October 19, 2018. In a November 1, 2018 progress report, Dr. Vakharia advised that appellant was doing well after surgery and should refrain from heavy lifting. As he failed to address causation in these reports, his opinion is of no probative value regarding the cause of the diagnosed conditions or their relationship to the accepted employment incident.[18]

An October 7, 2018 report by a health care provider with an illegible signature indicated that appellant had sought treatment on that date and could resume work on October 11, 2018 with restrictions. The Board has held that reports that are unsigned or bear an illegible signature lack proper identification and cannot be considered probative medical evidence as the author cannot be identified as a physician.[19]

Appellant submitted an abdominal CT scan performed on October 7, 2018. However, the Board has explained that diagnostic studies, standing alone, lack probative value on the issue of causal relationship as they do not address whether the employment incident caused any of the diagnosed conditions.[20] This report is therefore insufficient to establish the claim.

The Board finds that appellant has not submitted the necessary medical evidence to establish a medical condition caused or aggravated by the accepted employment incident. Therefore, appellant has not met his burden of proof to establish his claim.[21]

[16] *Id*.

[17] *See C.W.*, Docket No. 19-0231 (issued July 15, 2019); *M.O.*, Docket No. 18-1056 (issued November 6, 2018); *Deborah L. Beatty*, 54 ECAB 3234 (2003).

[18] *J.H.*, Docket No. 19-0838 (issued October 1, 2019); *S.G.*, Docket No. 19-0041 (issued May 2, 2019).

[19] *M.A.*, Docket No. 19-1551 (issued April 30, 2020).

[20] *R.C.*, Docket No. 19-0376 (issued July 15, 2019).

[21] *C.T.*, Docket No. 20-0020 (issued April 29, 2020).

Appellant may submit new evidence or argument with a written request for reconsideration 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 a medical condition causally related to the accepted October 6, 2018 employment incident.

ORDER

IT IS HEREBY ORDERED THAT the November 21, 2018 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: May 22, 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