United States Department of Labor
Employees' Compensation Appeals Board

P.L., Appellant	)	
and	)	**Docket No. 19-1750**
	)	**Issued: March 26, 2020**
U.S. POSTAL SERVICE, POST OFFICE, Marlin, TX, Employer	)	

Appearances:
Alan J. Shapiro, Esq., for the appellant[1]
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

ALEC J. KOROMILAS, Chief Judge
PATRICIA H. FITZGERALD, Alternate Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On August 19, 2019 appellant, through counsel, filed a timely appeal from a July 31, 2019 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act[2] (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

[1] In all cases in which a representative has been authorized in a matter before the Board, no claim for a fee for legal or other service performed on appeal before the Board is valid unless approved by the Board. 20 C.F.R. § 501.9(e). No contract for a stipulated fee or on a contingent fee basis will be approved by the Board. *Id.* An attorney or representative's collection of a fee without the Board's approval may constitute a misdemeanor, subject to fine or imprisonment for up to one year or both. *Id.*; *see also* 18 U.S.C. § 292. Demands for payment of fees to a representative, prior to approval by the Board, may be reported to appropriate authorities for investigation.

[2] 5 U.S.C. § 8101 *et seq.*

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.

FACTUAL HISTORY

On April 26, 2018 appellant, then a 50-year-old city carrier, filed an occupational disease claim (Form CA-2) alleging that she developed low back, buttocks, bilateral hip and knee and groin pain, and numbness of both legs due to factors of her federal employment. She noted that she initially became aware of her conditions on April 6, 2018 and realized their relationship to her federal employment on April 13, 2018. Appellant stopped work on April 28, 2018.

In a development letter dated May 10, 2018, OWCP requested that appellant submit additional evidence in support of her claim. It advised her of the type of factual and medical evidence needed and provided a questionnaire for her completion. By separate letter of even date, OWCP also requested additional information from the employing establishment. It afforded both appellant and the employing establishment 30 days to respond.

A magnetic resonance imaging (MRI) scan of the right knee dated March 23, 2018 revealed tricompartmental degenerative joint disease and osteoarthritis, patellar tendon lateral foraminal condyle friction syndrome, moderate knee joint effusion, and Baker's cyst.

Appellant was treated by Dr. Gilbert Mayorga, a family practitioner, on April 13, 2018 for pain and discomfort of the bilateral knees, right hip, and low back which developed while performing her letter carrier duties including lifting, sorting, carrying, walking, and delivering mail. Dr. Mayorga diagnosed lumbar spine sprain, sprain of the bilateral knees, degenerative joint disease of the bilateral knees, low back, and hip, chondromalacia patellae of the bilateral knees, sprain of the hip, and lumbar radiculitis. He recommended physical therapy and advised that appellant would remain off work for one month.

In an attending physician's report dated April 20, 2018, Dr. Mayorga diagnosed intervertebral disc disorders with radiculopathy lumbar region and internal derangement of the bilateral knees and checked the box marked "yes" indicating that the condition was caused or aggravated by an employment activity. He concluded that appellant was totally disabled from work.

On April 27, 2018[3] Dr. James S. Crockett, an osteopath specializing in family practice, treated appellant for bilateral knee pain.

In a narrative statement dated May 16, 2018, appellant indicated that her duties as a city letter carrier required prolonged standing and walking while carrying a mail satchel and loading parcels and trays of mail weighing up to 35 pounds into her vehicle. She performed these duties five to seven hours a day, five to six days a week. These tasks required repetitive bending, lifting,

[3] Only the first page of this report was submitted containing Dr. Crockett's letterhead, however, it was unsigned.

twisting, turning, and stooping. Appellant reported walking on all types of terrain and in all weather conditions while in the performance of duty.

An MRI scan of the lumbar spine dated May 30, 2018 revealed mildly accentuated lumbar lordosis, mild facet arthropathy at L3-4 and L4-5, and diffuse disc bulge with superimposed central protrusion and annular rent, may abut the S1 nerve roots bilaterally. An MRI scan of the left knee revealed small joint effusion, small semimembranosus gastrocnemius bural prolapse, mildly high riding patella, slight lateral patella subluxation, early grade four chondromalacia lateral compartment, mildly discoid medial meniscus, and possible bursitis. An MRI scan of the right hip revealed mild chondral thinning of the bilateral hips, low grade strain injury with degenerative and inflammatory changes, mild atrophic changes gluteus minimus bilaterally, scant fluid associated with the iliopsoas bursa, mild degenerative changes of the sacroiliac joints, and severe facet arthropathy at L4-5 and L5-S1 bilaterally.

By decision dated June 12, 2018, OWCP accepted the alleged employment factors. However, it denied her claim because the medical evidence of record was insufficient to establish a causal relationship between her diagnosed conditions and the accepted factors of her federal employment.

OWCP subsequently received a June 8, 2018 report and a June 22, 2018 attending physician's narrative from Dr. Mayorga, who noted that appellant worked as a letter carrier for 17 years and her duties required repetitively and continuously lifting, carrying, delivering mail, climbing in and out of her vehicle, ascending and descending stairs, and walking on uneven terrain. Dr. Mayorga diagnosed lumbar strain, sprain of the bilateral knees and right hip, degenerative joint disease of the bilateral knees and right hip, chondromalacia of the bilateral knees, and lumbar radiculitis. He opined that performing these job duties over a prolonged period directly resulted in wear and tear and micro trauma to the bilateral knees, right hip, and low back. Dr. Mayorga noted that appellant was totally disabled from work from June 8 to July 20, 2018.

On June 25, 2018 appellant requested reconsideration.

By decision dated July 2, 2018, OWCP denied modification of the June 12, 2018 decision.

On July 23, 2018 appellant requested reconsideration. In support of her request for reconsideration she provided an April 27, 2018 report from Dr. Crockett who noted findings on examination and diagnosed bilateral knee pain.

By decision dated September 11, 2018, OWCP denied modification of the July 2, 2018 decision.

OWCP subsequently received reports from Dr. Nolan Malthesen, a Board-certified orthopedist, dated January 20, 2016 to April 11, 2018, who diagnosed bilateral hip pain with possible labral tear, right knee medial compartment chondromalacia, and possible degenerative posterior meniscus tear. Dr. Malthesen noted that appellant was a letter carrier and walked several miles a day and experienced knee pain. He opined that the right knee was more likely an arthritic problem than a meniscal problem. On April 19, 2017 and April 11, 2018 Dr. Malthesen performed ultrasound guided steroid injections into the left knee.

Dr. Chad Connor, a Board-certified orthopedist, treated appellant on January 22, 2016 and diagnosed bilateral hip acetabular impingement syndrome and trochanteric bursitis. Appellant reported working as a carrier. Dr. Connor performed an ultrasound guided steroid injection into the right joint.

In a form report dated April 9, 2018, Dr. Crockett noted that appellant was a city carrier who cased mail, loaded and unloaded her vehicle, and delivered mail. He diagnosed internal derangement of the right knee and left knee pain. Dr. Crockett opined that appellant was totally disabled from work beginning March 19, 2018.

Appellant submitted additional reports from Dr. Mayorga dated April 27, May 11, July 23, August 17 and September 14, 2018 wherein he noted that appellant worked for the employing establishment for over 17 years and her job duties included prolonged walking and standing, climbing in and out of her vehicle, and walking on uneven ground, caused pain in her bilateral knee, right hip, low back, groin and buttocks. Dr. Mayorga again opined that appellant sustained her injuries as a result of performing her job duties.

By decision dated January 25, 2019, OWCP denied modification of the September 11, 2018 decision.

On March 12, 2019 appellant, through counsel, requested reconsideration and submitted an October 12, 2018 report from Dr. Mayorga who again noted that appellant's work duties included walking, carrying, lifting, walking, climbing, bending, standing, and getting in and out of vehicles. Dr. Mayorga opined that these activities caused gradual wearing of the joints including the bilateral knees and lumbar sacral spine. He noted that although these conditions were associated with "disease of ordinary life," he believed that 17 years of exposure to these activities caused stress on the preexisting conditions causing a worsening and exacerbation of the conditions. Dr. Mayorga opined that appellant's occupational exposure and her "disease of ordinary life" was aggravated, accelerated, and worsened as a result of direct occupational exposure.

By decision dated July 31, 2019, OWCP denied modification of the January 25, 2019 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,[4] 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

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

to the employment injury.[5] 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.[6]

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.[7]

Causal relationship is a medical question that requires rationalized medical opinion evidence to resolve the issue.[8] 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.[9] 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.[10]

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.[11]

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.

In support of her claim appellant submitted an April 13, 2018 report from Dr. Mayorga who treated her for pain and discomfort of the bilateral knees, right hip, and low back as a result of lifting, sorting, carrying, walking, and delivering mail. Dr. Mayorga diagnosed lumbar spine sprain, sprain of the bilateral knees, degenerative joint disease of the bilateral knees, low back, and

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

[6] *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).

[7] *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).

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

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

[10] *Id.*; *Victor J. Woodhams*, *supra* note 7.

[11] Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3e (January 2013). *See R.D.*, Docket No. 18-1551 (issued March 1, 2019).

hip, chondromalacia patellae of the bilateral knees, sprain of the hip, and lumbar radiculitis. While he provided affirmative opinions which supported causal relationship, he did not offer a rationalized medical explanation in any of his reports to support his opinion. Medical evidence that provides a conclusion, but does not offer a rationalized medical explanation regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship.[12]

In an attending physician's statement dated April 20, 2018, Dr. Mayorga diagnosed intervertebral disc disorders with radiculopathy lumbar region and internal derangement of the bilateral knees and indicated by a checkmark on a form that the condition was caused or aggravated by an employment activity. However, the checking of a box marked "yes" in a form report, without additional explanation or rationale, is insufficient to establish causal relationship.[13]

Reports from Dr. Mayorga dated April 27 to September 14, 2018, described appellant's work duties as a carrier and opined with reasonable medical certainty that performing these job duties over a prolonged period caused pain in her bilateral knee, right hip, low back, groin and buttocks. While Dr. Mayorga's opinion is generally supportive of causal relationship, he again did not provide adequate medical rationale explaining the basis of his opinion on causal relationship.[14] Thus, the Board finds that his reports are insufficient to establish appellant's burden of proof.

In a June 22, 2018 report, Dr. Mayorga noted a history of injury and diagnosed lumbar strain, sprain of the bilateral knees and right hip, degenerative joint disease of the bilateral knees and right hip, chondromalacia of the bilateral knees, and lumbar radiculitis. While he expressed his belief that appellant developed pain in her bilateral knees, right hip, and low back as a "direct result" of her performance of her job duties as a letter carrier, Dr. Mayorga did not provide a pathophysiological explanation as to how the accepted factors of appellant's employment either caused or contributed to his diagnosed conditions.[15] The Board has consistently held that complete medical rationalization is particularly necessary when there are preexisting conditions involving the same body part,[16] and has required medical rationale differentiating between the effects of the work-related injury and the preexisting condition in such cases.[17] Thus, the Board finds that this report from Dr. Mayorga is also insufficient to establish causal relationship.

[12] *C.V.*, Docket No. 18-1106 (issued March 20, 2019); *M.E.*, Docket No. 18-0330 (issued September 14, 2018); *A.D.*, 58 ECAB 149 (2006).

[13] *M.D.*, Docket No. 18-0195 (issued September 13, 2018).

[14] *See M.B.*, Docket No. 18-0906 (issued November 21, 2018).

[15] *Victor J. Woodhams*, *supra* note 7. Federal (FECA) Procedure Manual, Part 2 --- Claims, *Causal Relationship*, Chapter 2.805.3e (January 2013). *See R.D.*, Docket No. 18-1551 (issued March 1, 2019).

[16] *K.R.*, Docket No. 18-1388 (issued January 9, 2019).

[17] *See e.g., A.J.*, Docket No. 18-1116 (issued January 23, 2019); *M.F.*, Docket No. 17-1973 (issued December 31, 2018); *J.B.*, Docket No. 17-1870 (issued April 11, 2018); *E.D.*, Docket No. 16-1854 (issued March 3, 2017); *P.O.*, Docket No. 14-1675 (issued December 3, 2015).

Similarly, in his October 12, 2018 report, Dr. Mayorga opined that appellant's work duties as a carrier caused gradual wearing of the joints including the bilateral knees and lumbar sacral spine. He noted that these conditions were associated with "disease of ordinary life" and opined that appellant's occupational exposure caused stress on the preexisting conditions, causing a worsening and exacerbation of the conditions. However, Dr. Mayorga did not provide a diagnosis, a history of any preexisting conditions, or a discussion of how employment factors may have temporarily or permanently aggravated a preexisting condition.[18] Therefore this report is insufficient to meet appellant's burden of proof.

In reports dated April 27, 2018, Dr. Crockett diagnosed bilateral knee pain. In a certification of health care provider dated April 9, 2018, he described appellant's work duties and diagnosed internal derangement of the right knee and left knee pain. Dr. Crockett's notes are insufficient to establish the claim as "pain" is a symptom, not a medical diagnosis.[19] Additionally, he did not specifically address whether appellant's employment was sufficient to have caused or aggravated a diagnosed medical condition. Medical evidence that does not offer an opinion regarding the cause of an employee's condition or disability is of no probative value on the issue of causal relationship.[20] As such, Dr. Crockett's notes are insufficient to establish appellant's claim.

In reports dated January 20, 2016 to April 11, 2018, Dr. Malthesen diagnosed bilateral hip pain with possible labral tear, right knee medial compartment chondromalacia, and possible degenerative posterior meniscus tear. He noted that appellant was a letter carrier and walked several miles a day and experienced pain in her knees. Likewise, a January 22, 2016 report from Dr. Connor noted that appellant was a carrier and diagnosed bilateral hip acetabular impingement syndrome and trochanteric bursitis. 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.[21] These reports, therefore, are insufficient to establish appellant's claim.

Appellant also submitted diagnostic imaging studies. The Board has held that diagnostic studies lack probative value as they do not provide an opinion on causal relationship between accepted employment factors and a claimant's diagnosed conditions.[22] This evidence is therefore insufficient to establish appellant's claim.

As appellant has not submitted rationalized medical evidence sufficient to establish causal relationship, the Board finds that she has not met her burden of proof.

---

[18] *See Deborah L. Beatty*, 54 ECAB 340 (2003) (where the Board found that in the absence of a medical report providing a diagnosed condition and a reasoned opinion on causal relationship with the employment incident, appellant did not meet her burden of proof).

[19] Findings of pain or discomfort alone do not satisfy the medical aspect of the fact of injury medical determination. Federal (FECA) Procedure Manual, Part 2 -- Claims, *Fact of Injury*, Chapter 2.803.4a(6) (August 2012).

[20] *See L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

[21] *Id.*

[22] *See I.C.*, Docket No. 19-0804 (issued August 23, 2019).

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 conditions causally related to the accepted factors of her federal employment.

ORDER

IT IS HEREBY ORDERED THAT the July 31, 2019 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: March 26, 2020
Washington, DC

Alec J. Koromilas, 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