

particular time. Appellant related her condition to factors of her federal employment, including continuous violent twisting motions incurred during tactics and physical training classes.

In a report dated October 31, 2017, Dr. Vivek Sood, a Board-certified orthopedic surgeon, examined appellant for right hip complaints. He noted that appellant's pain had begun two months prior and was worsened by squatting and sitting. On physical examination, Dr. Sood observed limited internal rotation of the hip, pain elicited by motion, reduced strength, and a positive Patrick-Fabere test. An x-ray performed that day of appellant's right hip demonstrated no fracture, dislocation, well-preserved joint spaces, and normal alignment. Dr. Sood diagnosed an acetabular labrum tear.

In a development letter dated November 17, 2017, OWCP advised appellant that, while she had initially filed her claim as a traumatic injury, the claim had been converted to a claim for occupational illness because she had indicated that it was an overuse injury. It informed her that the evidence of record was insufficient to establish her claim. OWCP advised appellant of the type of factual and medical evidence needed and provided a questionnaire for her completion. It afforded her 30 days to submit additional evidence.

Appellant completed OWCP's development questionnaire on December 16, 2017. She explained that the work activities which caused her right hip condition related to physical and control tactics training. This training required that appellant engage in many repetitive, violent twisting motions involving the hip. These tasks were performed at least four times per week for the duration of her training from March through November 2017.

On January 3, 2018 appellant's immediate supervisor confirmed appellant's description of the control tactics and physical fitness training in which she participated.

By decision dated January 25, 2018, OWCP denied appellant's claim, finding that the medical evidence of record was insufficient to establish that her right hip condition was causally related to the accepted factors of her federal employment.

On February 21, 2018 appellant requested a review of the written record before a representative of OWCP's Branch of Hearings and Review.

By letter dated February 14, 2018, Dr. Sood related that appellant had been evaluated in his office on October 31, 2017. Appellant had complained of right hip pain that had been ongoing for several months. Dr. Sood reviewed her physical findings from his October 31, 2017 examination and diagnosed a right labral tear. He opined that appellant's injury was the result of the training exercises with the employing establishment, during which she was required to twist, bend, push, pull, lift, and use confrontation and altercation techniques. Dr. Sood explained that the labral injury occurred as the result of such movements, and that, as such, it was causally related to her work duties.

By decision dated June 20, 2018, an OWCP hearing representative affirmed the January 25, 2018 decision. She found that Dr. Sood's opinion was unsupported by rationale, and that, as such, it was of limited probative value and insufficient to establish appellant's claim.

On May 31, 2019 appellant, through counsel, requested reconsideration of OWCP's June 20, 2018 decision. With her request, appellant submitted a May 9, 2019 letter from Dr. Tanuj P. Palvia, Board-certified in pain medicine. Dr. Palvia stated that she was first seen on February 20, 2019 with complaints of left shoulder and right hip pain which she had experienced since September 2017. He noted his findings following physical examination of appellant's right hip. Dr. Palvia also related that appellant's right hip magnetic resonance imaging (MRI) scan demonstrated an obliquely oriented irregular labral tear of the right hip, extending from posterior superior to anterior inferior labrum, with fraying of labral fibers adjacent to the tear, mucoid degeneration, mild thickening of the greater trochanteric bursa, mild-to-moderate gluteus medius tendinosis, and mild gluteus minimus tendinosis.

Dr. Palvia opined that, in the setting of only mild-to-moderate gluteus medius and minimus tendinosis, normal offset of the femoro-acetabulum junction, absence of pincer lesion or cam deformity, well-preserved joint space and articular surfaces with no cartilage loss, and no osseous lesions or deformities in the healthy young patient, appellant's hip condition was related to her work-required training regimen. He noted that she had "no history of injury to this area" prior to her employment-related training and no contributing degenerative factors that would account for a labral defect of otherwise unknown etiology. Dr. Palvia explained that it was his professional opinion that in the absence of damage or trauma to the surrounding muscular, tendinous, ligamentous, neurovascular, and osseous structures, coupled with the absence of any underlying comorbidities that, would account for spontaneous tearing of the labrum, appellant's right hip condition was consistent with the intensive work-related control tactics and physical fitness training as the cause of the condition.

By decision dated August 27, 2019, OWCP reviewed the merits of appellant's claim, but denied modification of its June 20, 2018 decision.

LEGAL PRECEDENT

An employee seeking benefits under FECA² 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 of FECA, 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.³ 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.

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit: (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

² *Id.*

³ *C.K.*, Docket No. 19-1549 (issued June 30, 2020); *R.G.*, Docket No. 19-0233 (issued July 16, 2019); *Elaine Pendleton*, 40 ECAB 1143 (1989).

compensation is claimed; and (3) medical evidence establishing that the diagnosed condition is causally related to the identified employment factors.⁴

Causal relationship is a medical question that requires rationalized medical opinion evidence to resolve the issue.⁵ 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.⁶

ANALYSIS

The Board finds that this case is not in posture for decision.

On February 14, 2018 Dr. Sood diagnosed a right labral tear. He opined that appellant's injury was the result of the training exercises with the employing establishment, in which she was required to twist, bend, push, pull, lift, and use confrontation and altercation techniques. Dr. Sood explained that the labral injury occurred as the result of such movements, and that, as such, it was causally related to the accepted factors of her employment. On May 9, 2019 Dr. Palvia diagnosed a labral tear. He opined that, given appellant's mild-to-moderate gluteus medius and minimus tendinosis, normal offset of the femoro-acetabulum junction, absence of pincer lesion or cam deformity, well-preserved joint space and articular surfaces with no cartilage loss, and no osseous lesions or deformities in the healthy young patient, her hip condition was related to her employment required training regimen. Dr. Palvia stated that in the absence of no history of injury to her right hip prior to her training and no contributing degenerative factors that would account for a labral defect of otherwise unknown etiology, her intensive training, involving twisting, bending, pushing, pulling, lifting, and use of confrontation and altercation techniques, resulted in her injuries. He explained that given the absence of damage or trauma to the surrounding muscular, tendinous, ligamentous, neurovascular, and osseous structures, coupled with the absence of any underlying comorbidities that would account for spontaneous tearing of the labrum, this condition was consistent with appellant's work-related control tactics and physical fitness training.

The Board finds that, read together, the reports from Dr. Sood and Dr. Palvia are sufficient to require further development of the medical evidence. Dr. Sood is a Board-certified orthopedic surgeon and Dr. Palvia is Board-certified in pain medicine, rendering them qualified in their fields of medicine to render rationalized opinions on the issue of causal relationship. They both provided a comprehensive understanding of the medical record and case history and concluded that the movements required in work-related control tactics and physical fitness training had physiologically caused appellant's right hip labrum tear. Dr. Palvia further explained that other potential causes of her condition had been ruled out given physical findings. The Board has long held that it is unnecessary that the evidence of record in a case be so conclusive as to suggest causal

⁴ *L.D.*, Docket No. 19-1301 (issued January 29, 2020); *S.C.*, Docket No. 18-1242 (issued March 13, 2019); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

⁵ *I.J.*, Docket No. 19-1343 (issued February 26, 2020); *T.H.*, 59 ECAB 388 (2008); *Robert G. Morris*, 48 ECAB 238 (1996).

⁶ *D.J.*, Docket No. 19-1301 (issued January 29, 2020).

connection beyond all possible doubt. Rather, the evidence is only that necessary to convince the adjudicator that the conclusion drawn is rational, sound, and logical.⁷ The medical evidence of record from these physicians provided a well-rationalized and logical opinion that the movements required in appellant's work-related control tactics and physical fitness training had caused her right hip condition. Although the medical reports by Dr. Sood and Dr. Palvia are insufficient to meet her burden of proof to establish her claim, they do raise an uncontroverted inference between her diagnosed right hip condition and the accepted employment factors of her federal employment, sufficient to require OWCP to further develop the claim.⁸

It is well established that proceedings under FECA are not adversarial in nature and, while appellant has the burden of proof to establish entitlement to compensation, OWCP shares responsibility in the development of the evidence.⁹ It has an obligation to see that justice is done.¹⁰

On remand OWCP shall refer appellant to a specialist in the appropriate field of medicine, along with the case record and a statement of accepted facts. Its referral physician shall provide a well-rationalized opinion as to whether her diagnosed right hip condition was causally related to or aggravated by the accepted factors of her federal employment. If the physician opines that the diagnosed conditions are not causally related, he or she must explain with rationale how or why the opinion differs from that of Drs. Sood and Palvia. After such further development of the case record as OWCP deems necessary, it shall issue a *de novo* decision.

CONCLUSION

The Board finds that this case is not in posture for decision.

⁷ *B.C.*, Docket No. 20-0498 (issued August 27, 2020); *W.M.*, Docket No. 17-1244 (issued November 7, 2017); *Kenneth J. Deerman*, 34 ECAB 641, 645 (1983) and cases cited therein.

⁸ *See E.G.*, Docket No. 19-1296 (issued December 19, 2019).

⁹ *Id.* *See also A.P.*, Docket No. 17-0813 (issued January 3, 2018); *Jimmy A. Hammons*, 51 ECAB 219, 223 (1999).

¹⁰ *S.M.*, Docket No. 19-1634 (issued August 25, 2020); *see B.C.*, Docket No. 15-1853 (issued January 19, 2016); *John J. Carlone*, 41 ECAB 354 (1989).

ORDER

IT IS HEREBY ORDERED THAT the August 27, 2019 decision of the Office of Workers' Compensation Programs is set aside and the case is remanded for further proceedings consistent with this decision of the Board.

Issued: November 6, 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