

ISSUE

The issue is whether appellant has met his burden of proof to establish a right inguinal hernia causally related to the accepted August 5, 2019 employment incident.

FACTUAL HISTORY

On August 5, 2019 appellant, then a 59-year-old mail handler, filed a traumatic injury claim (Form CA-1) alleging that on that date he injured his groin while in the performance of duty. He explained that he was moving pallets on a platform when the pallet jack got stuck under the pallet. While removing the pallet jack, appellant felt a pain in his groin and, upon further investigation, he noticed a bump or an air pocket in his groin area. On the reverse side of the claim form, S.G., appellant's supervisor, opined that the bump was preexisting and his pain was due to a preexisting medical condition. Appellant stopped work that same day.

In an August 5, 2019 diagnostic report, Dr. Sarah Foster, a Board-certified diagnostic radiologist, performed a computerized tomography (CT) scan of appellant's abdomen and pelvis. She noted no acute findings to explain his right groin swelling and found no evidence of a right inguinal hernia.

In an undated statement, S.G. recounted the August 5, 2019 workday during which appellant informed him that he had experienced pain near his lower abdominal area after pulling a hand jack that was stuck under a pallet.

In a development letter dated August 12, 2019, OWCP informed appellant of the deficiencies of his claim. It advised him as to the type of factual and medical evidence needed and provided a questionnaire for his completion to provide further details regarding the circumstances of his claimed injury. OWCP also requested a narrative medical report from appellant's treating physician, which contained a detailed description of findings and diagnosis, explaining how the alleged employment incident caused, contributed to, or aggravated his medical condition. It afforded appellant 30 days to respond.

In an August 7, 2019 post injury evaluation, Dr. Allison Lam, Board-certified in emergency medicine, checked a box marked "Work-related" to indicate that appellant's injury was caused at work and diagnosed a right inguinal hernia. In a health/injury history form of even date, appellant indicated that he injured his lower abdominal and groin area when he was moving a pallet and the jack got stuck. He checked a box marked "No" to indicate that he had not had any treatment in the past for the same injury. In an August 7, 2019 duty status report (Form CA-17), Dr. Lam made note of appellant's groin pain caused while pulling a hand jack, diagnosed a right inguinal hernia, and suggested work restrictions for him.

Dr. Lam, in a medical report of even date, noted appellant's injury occurred on August 5, 2019 when he was pulling a heavy pallet and experienced groin pain. She also observed that he underwent surgery in 2016 to repair a hernia. On evaluation Dr. Lam diagnosed a right inguinal hernia and provided information explaining that the injury occurs when tissues bulge through a weak spot in the groin area. She stated that hernias may occur after heavy lifting, straining or

coughing. In a medical note of even date, Dr. Lam requested that appellant be excused from work until he can be evaluated by a specialist.

In an August 22, 2019 letter, Dr. Robert Barbalinardo, a Board-certified surgical oncologist, recounted the history of the alleged August 5, 2019 injury in which a pallet jack got stuck and appellant attempted to pull it out vigorously and subsequently experienced pain in his abdomen. He stated that appellant's past medical history was unremarkable and unrelated to his current symptoms. On evaluation Dr. Barbalinardo diagnosed a right inguinal hernia and proposed that he undergo surgery to treat his condition.

Dr. Barbalinardo, in an August 29, 2019 attending physician's report (Form CA-20), diagnosed a right inguinal hernia and checked a box marked "Yes" to indicate his opinion that appellant's condition was caused by lifting and moving boxes. He recommended that he performed surgery to treat his hernia and recommended that appellant remain out of work until October 17, 2019.

By decision dated September 16, 2019, OWCP denied appellant's traumatic injury claim, finding that the medical evidence of record was insufficient to establish that his diagnosed condition was causally related to the accepted August 5, 2019 employment incident.

OWCP continued to receive evidence. In an August 5, 2019 medical report, Jeffrey Heilpern, a registered nurse, evaluated appellant for groin pain and swelling he experienced after moving a pallet jack that was stuck at work.

In a medical report of even date, Dr. Jennifer Kleven, Board-certified in internal medicine, evaluated appellant for right groin pain he experienced after performing some heavy lifting at work. She noted that a CT scan of his groin revealed no hernia and diagnosed right inguinal pain.

In an August 15, 2019 medical report, Dr. Padmavathy Alli, a surgical oncologist, evaluated appellant for symptoms related to a hernia he developed at work during the August 5, 2019 employment incident. He made note of a previous right inguinal hernia he developed 10 to 15 years prior as well as the surgery he underwent to treat his condition. Dr. Alli diagnosed a right inguinal hernia and discussed treatment options for appellant.

On October 4, 2019 appellant requested reconsideration of OWCP's September 16, 2019 decision. He explained that his physician believed that it was heavy lifting at work that caused his injury as opposed to working with the pallet jack as he believed. Appellant stated that his treating physician would clear up the misunderstanding and provide further details explaining the mechanism of injury.

In a September 26, 2019 letter, Dr. Barbalinardo recounted the August 5, 2019 employment incident in which a pallet jack became stuck and appellant experienced pain in his abdomen and a mass in his groin after several attempts to physically remove it. He diagnosed a right inguinal hernia and performed surgery to treat the condition on September 23, 2019. Dr. Barbalinardo opined, upon a reasonable degree of medical certainty, that appellant's inguinal hernia may have been the direct result of his attempting to free a pallet jack at work.

By decision dated December 27, 2019, OWCP denied modification of its September 16, 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,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 determine whether a federal employee has sustained a traumatic injury in the performance of duty it must first be determined whether fact of injury has been established.⁶ First, the employee must submit sufficient evidence to establish that she actually experienced the employment incident at the time, place, and in the manner alleged.⁷ Second, the employee must submit sufficient evidence to establish that the employment incident caused a personal injury.⁸

To establish causal relationship between the condition, as well as any attendant disability claimed and the employment event or incident, the employee must submit rationalized medical opinion evidence sufficient to establish such causal relationship.⁹ 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 factors identified by the claimant.¹⁰

In a case in which a preexisting condition involving the same part of the body is present and the issue of causal relationship therefore involves aggravation, acceleration, or precipitation,

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 *D.B.*, Docket No. 18-1348 (issued January 4, 2019); *T.H.*, 59 ECAB 388, 393-94 (2008).

⁷ *D.S.*, Docket No. 17-1422 (issued November 9, 2017); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁸ *B.M.*, Docket No. 17-0796 (issued July 5, 2018); *John J. Carlone*, 41 ECAB 354 (1989).

⁹ *K.V.*, Docket No. 18-0723 (issued November 9, 2018).

¹⁰ *I.J.*, 59 ECAB 408 (2008).

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 his burden of proof to establish a right inguinal hernia causally related to the accepted August 5, 2019 employment incident.

In letters dated August 22 and September 26, 2019, Dr. Barbalinardo recounted the August 5, 2019 employment incident in which a pallet jack became stuck and appellant experienced pain in his abdomen and a mass in his groin after several attempts to physically remove it. He diagnosed a right inguinal hernia and performed surgery on September 23, 2019 in order to treat his condition. Dr. Barbalinardo opined that appellant's condition may have been the direct result of his actions at work in attempting to free the pallet. While he provided an affirmative opinion on causal relationship, he did not offer any medical rationale sufficient to explain how and why he believes the August 5, 2019 employment incident could have resulted in or contributed to appellant's diagnosed condition. Dr. Barbalinardo's letters are, therefore, of limited probative value and insufficient to meet appellant's burden of proof.¹²

In an August 29, 2019 Form CA-20, Dr. Barbalinardo diagnosed a right inguinal hernia and checked a box marked "Yes" to indicate his opinion that appellant's condition was caused by lifting and moving boxes. The Board has held that a physician's opinion on causal relationship which consists of checking a box marked "Yes" in response to a form question, without explanation or rationale, is of diminished probative value and is insufficient to establish a claim.¹³ Without explaining how lifting and moving boxes caused or contributed to appellant's right inguinal hernia, Dr. Barbalinardo's Form CA-20 is of limited probative value.¹⁴

In an August 7, 2019 medical report, Dr. Lam noted that appellant's injury occurred on August 5, 2019 when he was pulling a heavy pallet and experienced groin pain. She diagnosed a right inguinal hernia and provided information explaining that hernias may occur after heavy lifting, straining, or coughing. Dr. Lam also noted that appellant underwent surgery in 2016 in order to repair a hernia. Medical opinions that suggest that a condition "may" or was "likely" caused by work activities are speculative or equivocal in character and have limited probative

¹¹ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3e (January 2013); *J.L.*, Docket No. 20-0717 (issued October 15, 2020).

¹² See *A.P.*, Docket No. 19-0224 (issued July 11, 2019).

¹³ See *J.R.*, Docket No. 18-1679 (issued May 6, 2019); *M.C.*, Docket No. 18-0361 (issued August 15, 2018); *Calvin E. King, Jr.*, 51 ECAB 394 (2000); see also *Frederick E. Howard, Jr.*, 41 ECAB 843 (1990).

¹⁴ *Supra* note 12.

value.¹⁵ Without explaining how pulling a heavy pallet caused or contributed to appellant's right inguinal hernia, Dr. Lam's August 7, 2019 is of limited probative value.¹⁶ Additionally, the Board has held that a well-rationalized opinion is particularly warranted when there is a history of a preexisting condition, as in this case.¹⁷ For these reasons, Dr. Lam's medical report is insufficient to meet appellant's burden of proof.

Dr. Lam's remaining medical evidence consisted of various forms dated August 7, 2019 in which she diagnosed a right inguinal hernia and checked a box marked "Work related" to indicate that appellant's injury was caused at work. As stated previously, the Board has held that a physician's opinion on causal relationship which consists of an affirmative opinion in response to a form question, without explanation or rationale, is of diminished probative value and is insufficient to establish a claim.¹⁸ For this reason, Dr. Lam's remaining medical evidence is insufficient to meet appellant's burden of proof.

In an August 15, 2019 medical report, Dr. Alli evaluated appellant for his right inguinal hernia and noted that he previously underwent surgery approximately 10 to 15 years prior to treat a right inguinal hernia. The Board has held that 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.¹⁹ Additionally, the Board has held that a well-rationalized opinion is particularly warranted when there is a history of a preexisting condition, as in this case.²⁰ For these reasons, Dr. Alli's medical report is insufficient to meet appellant's burden of proof.

In an August 5, 2019 medical report, Dr. Kleven evaluated appellant for right groin pain he experienced after performing some heavy lifting at work. She noted that a CT scan of his groin revealed no hernia and diagnosed right inguinal pain. The Board has held that the assessment of pain is not considered a diagnosis, as pain merely refers to a symptom of an underlying condition.²¹ A medical report lacking a firm diagnosis and a rationalized medical opinion regarding causal

¹⁵ The Board has held that speculative and equivocal medical opinions regarding causal relationship have no probative value. *R.C.*, Docket No. 18-1695 (issued March 12, 2019); *see Ricky S. Storms*, 52 ECAB 349 (2001) (while the opinion of a physician supporting causal relationship need not be one of absolute medical certainty, the opinion must not be speculative or equivocal. The opinion should be expressed in terms of a reasonable degree of medical certainty).

¹⁶ *Supra* note 12.

¹⁷ *Supra* note 11.

¹⁸ *Supra* note 14.

¹⁹ *See L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

²⁰ *Supra* note 11.

²¹ *M.V.*, Docket No. 18-0884 (issued December 28, 2018). The Board has consistently held that pain is a symptom, rather than a compensable medical diagnosis. *See P.S.*, Docket No. 12-1601 (issued January 2, 2013); *C.F.*, Docket No. 08-1102 (issued October 10, 2008).

relationship is of no probative value.²² For this reason, Dr. Kleven's August 5, 2019 medical report is insufficient to meet appellant's burden of proof.

In an August 5, 2019 diagnostic report, Dr. Foster performed a CT scan of appellant's abdomen pelvis. She noted not acute findings to explain his right groin swelling and found no evidence of a right inguinal hernia. The Board has held that diagnostic studies, standing alone, lack probative value as to the issues of causal relationship as they do not address whether the employment incident caused the diagnosed condition.²³ For this reason, Dr. Foster's August 5, 2019 diagnostic report is insufficient to meet appellant's burden of proof.

The remaining medical evidence consists of an August 5, 2019 medical report from Jeffrey Heilpern, a registered nurse. The Board has consistently held that certain healthcare providers such as physician assistants, registered nurses, physical therapists, and social workers are not considered physician[s] as defined under FECA.²⁴ Consequently, their medical findings and/or opinions will not suffice for purposes of establishing entitlement to FECA benefits.²⁵

As appellant has not submitted rationalized medical evidence establishing that his right inguinal hernia is causally related to the accepted August 5, 2019 employment incident, the Board finds that he has not met his burden of proof to establish his claim.

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 a right inguinal hernia causally related to the August 5, 2019 employment incident.

²² *P.C.*, Docket No. 18-0167 (issued May 7, 2019).

²³ *M.L.*, Docket No. 18-0153 (issued January 22, 2020); *see J.S.*, Docket No. 17-1039 (issued October 6, 2017).

²⁴ Section 8102(2) of FECA provides as follows: (2) physician includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, and osteopathic practitioners within the scope of their practice as defined by State law. 5 U.S.C. § 8101(2); 20 C.F.R. § 10.5(t). *See also* Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3a(1) (January 2013); *David P. Sawchuk*, 57 ECAB 316, 320 n.11 (2006) (lay individuals such as physician assistants, nurses, and physical therapists are not competent to render a medical opinion under FECA).

²⁵ *Id.*; *see also R.L.*, Docket No. 19-0440 (issued July 8, 2019) nurse practitioners are not considered physicians as defined under FECA).

ORDER

IT IS HEREBY ORDERED THAT the December 27, 2019 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: November 6, 2020
Washington, DC

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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

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