

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

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R.B., Appellant)	
)	
and)	Docket No. 20-1602
)	Issued: May 26, 2021
U.S. POSTAL SERVICE, POST OFFICE,)	
Park Place, TX, Employer)	
)	

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
 ALEC J. KOROMILAS, Chief Judge
 JANICE B. ASKIN, Judge
 VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On September 8, 2020 appellant filed a timely appeal from March 20 and August 17, 2020 merit decisions 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 his burden of proof to establish a left inguinal hernia condition causally related to the accepted September 19, 2019 employment incident.

¹ 5 U.S.C. § 8101 *et seq.*

² The Board notes that following the August 17, 2020 decision, appellant submitted additional evidence to OWCP. 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 September 23, 2019 appellant, then a 59-year-old automotive technician, filed a traumatic injury claim (Form CA-1) alleging that on September 19, 2019 when pushing a truck out of a stall he felt pain in the lower left abdomen while in the performance of duty. He stopped work on September 23, 2019 and worked intermittently thereafter.

On September 20, 2019 appellant was treated by Dr. Mitzi T. Jimenez, a Board-certified family practitioner, who diagnosed left inguinal hernia and referred him to a surgeon. In a work status note of even date she released appellant to light duty. On October 11, 2019 Dr. Jimenez indicated that appellant was unable to work because he could not lift any weight.

In a narrative statement dated September 23, 2019, appellant related that on September 19, 2019 he was pushing a long life vehicle (LLV) when he felt pain in his lower abdomen and later developed a bump in that area. He sought medical care and was diagnosed with an inguinal hernia.

In an October 7, 2019 development letter, OWCP informed appellant of the deficiencies of his claim. It advised him of the medical evidence necessary to establish a claim and attached a questionnaire for his completion. OWCP afforded appellant 30 days to submit the requested evidence.

In an October 17, 2019 response to OWCP's development letter, appellant reported that on September 19, 2019 he was assisting a coworker, S.C., pushing an LLV out of a stall when he lost his footing, felt abdomen pain, and fell on his left knee. He indicated that he did not sustain any other injury between the date of the injury and the date first reported. Appellant's pain increased over time and he felt a bump in his lower left groin area and sought treatment from Dr. Jimenez.

In a witness statement dated October 17, 2019, S.C. reported that on September 19, 2019 appellant assisted him in pushing a vehicle out of his bay when he fell onto one knee.

OWCP subsequently received a duty status report (Form CA-17) from Dr. Jorge Guerrero, a Board-certified family practitioner, dated October 31, 2019, who noted clinical findings of tender left inguinal hernia and checked a box marked "Yes" that the diagnosis was due to injury. Dr. Guerrero noted that appellant was unable to return to work.

By decision dated November 15, 2019, OWCP denied appellant's traumatic injury claim finding that the medical evidence submitted was insufficient to establish causal relationship between his diagnosed condition and the accepted September 19, 2019 employment incident.

In excuse notes for work/school dated October 31 and November 29, 2019, Dr. Guerrero treated appellant and indicated that surgery was pending and it was unknown when he would be returning to work. In a November 29, 2019 follow-up visit, he related that on September 19, 2019 appellant was pushing the bumper of an automobile and felt a pop in the left inguinal area and subsequently noticed a large bulge. Appellant was examined on October 31, 2019 and diagnosed with large left inguinal bulging mass, a widened left inguinal canal, and traumatic hernia. Physical examination was unchanged and he was referred for an inguinal evaluation for possible hernia repair.

On December 2, 2019 appellant requested an oral hearing before a representative of OWCP's Branch of Hearings and Review regarding the decision dated November 15, 2019. The hearing was held on February 11, 2020.

In a January 27, 2020 report, Dr. Paul E. Kobza, an osteopath, treated appellant for an injury sustained at work when he was pushing a car and felt severe pain and a pulling sensation in his groin. Examination revealed tenderness over the left groin and testicle, forced Valsalva maneuver displayed positive hernia wave present on the left, and digital palpation of the left epididymal areas were positive for pain. Dr. Kobza diagnosed left unilateral inguinal hernia without obstruction or gangrene. He recommended left inguinal hernia repair with mesh reinforcement. In physician's preoperative orders, Dr. Kobza diagnosed left inguinal hernia. In accompanying Form CA-17 reports dated January 27 and March 2, 2020, he noted the diagnoses due to injury was left inguinal hernia and advised that appellant could return to work with restrictions on January 28, 2020. In notes dated January 27 and March 2, 2020, Dr. Kobza determined that appellant was incapacitated from doing his regular work duties and would have a 10-pound lifting restriction until surgery.

By decision dated March 20, 2020, the hearing representative affirmed the decision dated November 15, 2019.

OWCP subsequently received medical evidence previously of record. In a December 30, 2019 note, Dr. Guerrero related a history of the September 19, 2019 work incident and diagnosed large left inguinal bulging mass, a widened left inguinal canal, and traumatic hernia. Physical examination was unchanged and he referred appellant for an inguinal evaluation for possible hernia repair. In a Form CA-17 dated January 2, 2020, Dr. Guerrero noted clinical findings of a tender left inguinal hernia and noted affirmatively "Yes" that the diagnosis was due to injury. He noted that appellant was unable to return to work.

On March 2, 2020 Dr. Kobza treated appellant for a left inguinal hernia that developed after pushing a car at work. Examination revealed tenderness over the left groin and testicle, forced Valsalva maneuver displayed positive hernia wave present on the left, and digital palpation of the left epididymal areas was positive for pain. Dr. Kobza diagnosed left unilateral inguinal hernia without obstruction or gangrene and recommended a left inguinal hernia repair. He evaluated appellant again on April 6 and May 7, 2020 and appellant reported no change in his symptoms. Dr. Kobza reported that appellant was injured at work after pushing a car with the brakes engaged. He diagnosed left inguinal. In a July 9, 2020 report, Dr. Kobza noted tenderness to palpation over the left testicle, forced Valsalva maneuver revealed positive hernia wave present on the left, and pain with palpation of the left epididymal area. He diagnosed left inguinal hernia and advised that appellant was awaiting authorization for surgery. Dr. Kobza returned appellant to light duty. Form CA-17 reports from Dr. Kobza dated April 6 and May 7, 2020 noted clinical findings and diagnosis of left inguinal hernia due to injury. Similarly, a Form CA-17 report dated August 10, 2020 noted clinical findings of left inguinal hernia and advised that appellant could not work. In notes dated May 7 and August 10, 2020, Dr. Kobza opined that appellant was incapacitated from performing his regular work duties and would have a 10-pound lifting restriction until surgery.

On May 19, 2020 appellant requested reconsideration.

By decision dated August 17, 2020, OWCP denied modification of the prior decision dated March 20, 2020.

LEGAL PRECEDENT

An employee seeking benefits under FECA³ has the burden of proof to establish the essential elements of his or her claim, including 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,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 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 determine whether a federal employee has sustained a traumatic injury in the performance of duty, it first must be determined whether fact of injury has been established. First, the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time, place, and in the manner alleged. Second, the employee must submit sufficient evidence to establish that the employment incident caused a personal injury.⁷

The medical evidence required to establish a causal relationship is rationalized medical opinion evidence.⁸ The opinion of the physician must be based on a complete factual and medical background of the employee, 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 specific employment incident identified by the employee.⁹

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish a left inguinal hernia condition causally related to the accepted September 19, 2019 employment incident.

³ *Supra* note 1.

⁴ *F.H.*, Docket No. 18-0869 (issued January 29, 2020); *J.P.*, Docket No. 19-0129 (issued April 26, 2019); *Joe D. Cameron*, 41 ECAB 153 (1989).

⁵ *L.C.*, Docket No. 19-1301 (issued January 29, 2020); *J.H.*, Docket No. 18-1637 (issued January 29, 2020); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

⁶ *P.A.*, Docket No. 18-0559 (issued January 29, 2020); *K.M.*, Docket No. 15-1660 (issued September 16, 2016); *Delores C. Ellyett*, 41 ECAB 992 (1990).

⁷ *T.J.*, Docket No. 19-0461 (issued August 11, 2020); *K.L.*, Docket No. 18-1029 (issued January 9, 2019); *John J. Carlone*, 41 ECAB 354 (1989).

⁸ *S.S.*, Docket No. 19-0688 (issued January 24, 2020); *A.M.*, Docket No. 18-1748 (issued April 24, 2019); *Robert G. Morris*, 48 ECAB 238 (1996).

⁹ *T.L.*, Docket No. 18-0778 (issued January 22, 2020); *Y.S.*, Docket No. 18-0366 (issued January 22, 2020); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

In reports dated January 27 and March 2, 2020, Dr. Kobza treated appellant for an injury sustained at work when he was pushing a car and felt severe pain and a pulling sensation in his groin. He diagnosed left unilateral inguinal hernia without obstruction or gangrene and recommended surgery. Dr. Kobza evaluated appellant again on April 6 and May 7, 2020 and diagnosed left inguinal hernia. He reported that appellant was injured at work after straining while pushing a car with the brakes engaged. While Dr. Kobza provided affirmative opinions, which supported causal relationship, he did not offer a rationalized medical explanation in any of these 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.¹⁰

In Form CA-17 reports dated January 27, March 2, April 6, and May 7, 2020, Dr. Kobza noted clinical findings of left inguinal hernia and indicated that the left inguinal hernia was due to injury. In a Form CA-17 dated August 10, 2020, he noted clinical findings of left inguinal hernia and indicated that appellant could not return to work. However, Dr. Kobza did not specifically relate the diagnosed conditions to the accepted September 19, 2019 employment incident. As noted above, the Board has held that medical evidence that does not offer an opinion regarding the cause of a diagnosed condition is of no probative value on the issue of causal relationship.¹¹ Therefore, the Board finds that these reports are insufficient to establish appellant's burden of proof.

In notes dated January 27, March 2, May 7, and August 10, 2020, Dr. Kobza opined that appellant was incapacitated from doing his regular work duties and would have a 10-pound lifting restriction until surgery. Similarly, in a July 9, 2020 report, he diagnosed left inguinal hernia and advised that appellant was awaiting authorization for surgery and could return to light duty. As these notes do not address causation, they are of no probative value and insufficient to meet appellant's burden of proof.¹²

Reports from Dr. Guerrero dated November 29 and December 30, 2019 related that on September 19, 2019 appellant was pushing the bumper of an automobile and felt a pop in the left inguinal area and subsequently noticed a large bulge. Appellant was examined on October 31, 2019 and diagnosed with large left inguinal bulging mass, a widened left inguinal canal, and traumatic hernia. The Board has held that the mere fact that symptoms arise during a period of employment or produce symptoms revelatory of an underlying condition does not establish a causal relationship between a diagnosed condition and employment factors.¹³ A medical opinion

¹⁰ *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).

¹¹ *See L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

¹² *See id.*

¹³ *A.S.*, Docket No. 19-1955 (issued April 9, 2020).

must provide an explanation of how the specific employment incident or employment factors physiologically caused or aggravated the diagnosed conditions.¹⁴

In Form CA-17 reports dated October 31, 2019 and January 2, 2020, Dr. Guerrero noted clinical findings of left inguinal hernia and indicated that appellant was unable to return to work. In response to a question as to whether the diagnoses was due to injury, he responded affirmatively noting “Yes,” without further comment. The Board has held that when a physician’s opinion on causal relationship consists only of noting “Yes” to a form question, without explanation or rationale, that opinion is of limited probative value regarding causal relationship.¹⁵

In excuses for work/school dated October 31 and November 29, 2019, Dr. Guerrero treated appellant and indicated that surgery was pending and it was unknown when he would be returning to work. As these notes do not address causation, they are of no probative value and insufficient to meet appellant’s burden of proof.¹⁶

In a September 20, 2019 report, Dr. Jimenez diagnosed left inguinal hernia and referred appellant to a surgeon. In a work status note of even date, he released appellant to light duty. On October 11, 2019 he indicated that appellant was unable to work because he could not lift any weight. The Board has held that medical reports are of no probative value if they do not provide an opinion regarding the cause of the employee’s condition or disability.¹⁷

As appellant has not submitted rationalized medical evidence sufficient to establish that his diagnosed medical condition was caused or aggravated by the accepted September 19, 2019 employment incident, the Board finds that he has not met his burden of proof.¹⁸

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 left inguinal hernia condition causally related to the accepted September 19, 2019 employment incident.

¹⁴ *G.L.*, Docket No. 18-1057 (issued April 14, 2020).

¹⁵ *M.G.*, Docket No. 18-1616 (issued April 9, 2020); *Sedi L. Graham*, 57 ECAB 494 (2006); *D.D.*, 57 ECAB 734 (2006).

¹⁶ *See supra* note 13.

¹⁷ *Id.*

¹⁸ *See T.J.*, Docket No. 19-1339 (issued March 4, 2020); *F.D.*, Docket No. 19-0932 (issued October 3, 2019); *D.N.*, Docket No. 19-0070 (issued May 10, 2019); *R.B.*, Docket No. 18-1327 (issued December 31, 2018).

ORDER

IT IS HEREBY ORDERED THAT the August 17 and March 20, 2020 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: May 26, 2021
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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