

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

_____)	
R.I., Appellant)	
)	
and)	Docket No. 21-0033
)	Issued: May 18, 2021
U.S. POSTAL SERVICE, POST OFFICE,)	
Madison, WI, Employer)	
_____)	

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

Case Submitted on the Record

DECISION AND ORDER

Before:
JANICE B. ASKIN, Judge
PATRICIA H. FITZGERALD, Alternate Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On October 5, 2020 appellant filed a timely appeal from a September 23, 2020 merit decision 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 hip condition causally related to the accepted factors of his federal employment.

¹ 5 U.S.C. § 8101 *et seq.*

² The Board notes that, following the September 23, 2020 decision, OWCP received additional evidence. 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 June 4, 2020 appellant, then a 65-year-old rural delivery specialist, filed an occupational disease claim (Form CA-2) alleging that he developed a left groin hernia as a result factors of his federal employment, including repetitive lifting of heavy parcels. He noted that he first became aware of his condition and realized its relationship to his federal employment on March 26, 2020. Appellant did not stop work.

In a visit note dated June 5, 2020, Dr. Timothy Bergan, a family medicine specialist, diagnosed a left hip strain. He opined that the condition was work related and that appellant could return to work without restrictions, effective immediately.

In a July 6, 2020 development letter, OWCP informed appellant of the deficiencies of his claim. It advised him of the factual and medical evidence necessary to establish his claim and also provided a questionnaire for completion. OWCP afforded appellant 30 days to respond.

Appellant indicated, in a July 14, 2020 response to OWCP's development questionnaire, that his work duties included lifting 225 to 325 parcels of varying shapes and sizes, weighing up to 70 pounds each, on a daily basis. He indicated that he developed groin pain while lifting a parcel on March 26, 2020 and that he lifted parcels approximately one to two hours total per day, especially for the past several years when the volume of parcels had skyrocketed. Appellant described the groin pain as constant, and indicated that it would increase throughout the day as he lifted parcels. He denied any prior similar injuries or engaging in any activities outside of work, which would cause his symptoms.

In a July 15, 2020 visit note, Dr. Bergan again diagnosed left hip strain and opined that the injury was work related and released appellant from care.

By decision dated September 23, 2020, OWCP denied appellant's claim, finding that the medical evidence of record was insufficient to establish that the left hip condition was causally related to the accepted factors of his federal employment.

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

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).

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 The opinion of the physician must be based upon 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.⁹

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish a left hip condition causally related to the accepted factors of his federal employment.

In his notes dated June 5 and July 15, 2020, Dr. Bergan diagnosed a left hip strain and opined that “this injury is determined to be work related.” However, his notes do not contain a history regarding any mechanism of injury, and he did not explain a pathophysiological process of how any of appellant’s work duties contributed to his left hip strain.¹⁰ The Board has held that a medical opinion should reflect a correct history and offer a medically-sound and rationalized explanation by the physician of how the specific employment duties physiologically caused or aggravated the diagnosed conditions.¹¹ As noted above, medical evidence which does not explain the nature of the relationship between the diagnosed condition and the specific employment factors is insufficient to meet the claimant’s burden of proof.¹²

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); *Dolores C. Ellyett*, 41 ECAB 992 (1990).

⁷ *P.L.*, Docket No. 19-1750 (issued March 26, 2020); *R.G.*, Docket No. 19-0233 (issued July 16, 2019); *L.M.*, Docket No. 13-1402 (issued February 7, 2014); *Dolores C. Ellyett, id.*

⁸ *I.J.*, Docket No. 19-1343 (issued February 26, 2020); *T.H.*, 59 ECAB 388 (2008); *Robert G. Morris*, 48 ECAB 238 (1996).

⁹ *D.C.*, Docket No. 19-1093 (issued June 25, 2020); *see L.B.*, Docket No. 18-0533 (issued August 27, 2018).

¹⁰ *J.D.*, Docket No. 19-1953 (issued January 11, 2021); *J.C.*, Docket No. 18-1474 (issued March 20, 2019); *M.M.*, Docket No. 15-0607 (issued May 15, 2015); *M.W.*, Docket No. 14-1664 (issued December 5, 2014).

¹¹ *See J.M.*, Docket No. 17-1002 (issued August 22, 2017).

¹² *See supra* note 9.

Therefore, the Board finds that Dr. Bergan's reports are insufficient to establish appellant's burden of proof.

As appellant has not submitted rationalized medical evidence to establish a left hip condition causally related to the accepted factors of his federal employment, the Board finds that he has not met his burden of proof.

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 hip condition causally related to the accepted factors of his federal employment.

ORDER

IT IS HEREBY ORDERED THAT the September 23, 2020 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: May 18, 2021
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