United States Department of Labor
Employees' Compensation Appeals Board

A.I., Appellant	)	
	)	
and	)	**Docket No. 22-1023**
	)	**Issued: February 28, 2023**
U.S. POSTAL SERVICE, VINELAND CARRIER ANNEX, Vineland, NJ, 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
PATRICIA H. FITZGERALD, Deputy Chief Judge
JANICE B. ASKIN, Judge

JURISDICTION

On June 27, 2022 appellant filed a timely appeal from a January 31, 2022 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act[1] (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.[2]

[1] 5 U.S.C. § 8101 *et seq.*

[2] The Board notes that, following the January 31, 2022 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.*

ISSUE

The issue is whether appellant has met her burden of proof to expand the acceptance of her claim to include left hamstring tendinitis, left knee internal derangement, and deep vein thrombosis (DVT) causally related to the accepted August 4, 2018 employment injury.

FACTUAL HISTORY

On August 8, 2018 appellant, then a 26-year-old postal support employee clerk, filed a traumatic injury claim (Form CA-1) alleging that on August 4, 2018 she injured her left leg behind the knee when she was "doing breakdown and bringing in equipment for opening" while in the performance of duty. She did not stop work.

In an August 17, 2018 development letter, OWCP informed appellant of the deficiencies of her claim. It advised her of the type of factual and medical evidence necessary to establish her claim and afforded her 30 days to respond

Appellant submitted a report, physical therapy prescription slip, and a visit status note dated August 13, 2018 by Dr. Steven H. Kahn, an osteopath and Board-certified orthopedic surgeon, who indicated that she was treated for injuries that she sustained as a result of an August 4, 2018 employment incident. Dr. Kahn related that she was bringing in equipment as part of her routine breakdown of machines when she experienced pain and throbbing about the posterior aspect of her left knee. On examination of appellant's left knee, he observed palpatory tenderness in the popliteal fossa with some fullness and palpatory tenderness about the biceps femoris. Range of motion examination demonstrated 5 degrees short of full extension to approximately 95 to 100 degrees flexion with associated posterior left knee pain. Dr. Kahn diagnosed left hamstring tendinitis, post-traumatic left knee sprain, and clinical internal derangement of the left knee. He opined that appellant could not return to work because her job responsibilities included standing for a prolonged period of time.

In an August 13, 2018 authorization for examination and/or treatment (Form CA-16), Part B -- attending physician's report and duty status report (Form CA-17), Dr. Kahn noted examination findings of tenderness and reduced range of motion. On the Form CA-16, he diagnosed internal derangement and checked a box marked "Yes" noting that the condition was caused by repetitive movement.

In a report, work status note, and Form CA-17 dated August 24, 2018, Dr. Kahn noted that appellant was reevaluated for an August 4, 2018 employment incident. He provided examination findings and diagnosed post-traumatic left knee sprain, left hamstring tendinitis, and clinical internal derangement of the left knee.

In a September 7, 2018 report and work status note, Dr. Kahn indicated that appellant continued to have left knee pain despite undergoing physical therapy treatments. He provided examination findings and noted that a left knee magnetic resonance imaging (MRI) scan[3]

[3] A September 5, 2018 left knee MRI scan revealed mild patellar cartilage loss and, otherwise, no internal derangement.

demonstrated partial fissuring of the patellar cartilage, intact medial and lateral menisci without evidence of tearing, and intact hamstring tendinitis. Dr. Kahn diagnosed post-traumatic left knee sprain and clinical left hamstring tendinitis. He described that on August 4, 2018 appellant had to push several containers that were as tall as her and required help from several drivers due to the weight of the containers. Dr. Kahn opined that it is "very plausible that this mechanism of injury did cause [appellant's] left posterior knee hamstring tendinitis," especially since she was unable to push these bins and containers without assistance. He further explained that the repetitive motion of unloading bins of mail and pushing carts to various areas was the "mechanism of injury ... and can cause the hamstring tendinitis."

In a September 15, 2018 response to OWCP's development letter, appellant explained that on August 4, 2018 she felt pain behind her left knee after moving heavy loads back and forth between the trucks and the breakdown area. She noted that she did not immediately report the injury because she thought that the pain would subside. Appellant reported that she did not sustain any other injury on August 4, 2018 and had no prior injuries to her left leg or knee.

By decision dated September 19, 2018, OWCP accepted that the August 8, 2018 incident occurred as alleged and that medical conditions were diagnosed; however, it denied appellant's claim, finding that the medical evidence of record was insufficient to establish causal relationship between her diagnosed conditions and the accepted employment incident. It concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

On October 19, 2018 appellant requested reconsideration.

In an October 12, 2018 report, Dr. Kahn noted his disagreement with the September 19, 2018 OWCP decision. He asserted that the repetitive motion of unloading one cart to the next and having to push these carts to various areas in the employing establishment post office is the "mechanism of injury as it is repetitive in nature and can cause hamstring tendinitis." Dr. Kahn further explained that appellant was right-foot dominant, which can cause hamstrings to be irritated because when she is pushing off, the knee is in an extended position putting excessive stress on the hamstring tendons in the posterior aspect of her left knee. He also indicated that she continued working after she initially reported her injury and opined that this contributed to additional injury and aggravation of her condition. Dr. Kahn concluded that appellant's condition was clearly and directly related to her August 4, 2018 employment incident. He diagnosed healed post-traumatic left knee sprain and post-traumatic left hamstring tendinitis, symptomatically improved.

By decision dated January 16, 2019, OWCP vacated the September 19, 2018 decision, in part, finding that the medical evidence of record was sufficient to establish a healed left knee sprain causally related to appellant's accepted August 8, 2018 employment incident. However, it denied her claim for the conditions of left hamstring tendinitis and clinical internal derangement of the left knee, finding that the medical evidence of record was insufficient to establish additional conditions causally related to the accepted August 8, 2018 employment injury.[4]

[4] By separate decision dated January 16, 2019, OWCP formally accepted appellant's claim for resolved left knee sprain.

Appellant submitted hospital records dated February 1, 2019. In an emergency room examination report, Dr. James Baird, an osteopath and Board-certified emergency and internal medicine physician, recounted her complaints of left calf pain and swelling. He conducted an examination and noted an outpatient ultrasound that was positive for DVT. Dr. Baird diagnosed DVT in the left lower extremity.

In reports dated February 1 and April 29, 2019, Dr. Kahn provided examination findings and diagnosed healed post-traumatic left knee sprain, recurrent post-traumatic left hamstring tendinitis, and left lower swelling. In an addendum note, he indicated that an ultrasound of appellant's left leg was positive for a blood clot.[5] Dr. Kahn reported that it was "difficult to relate this blood clot to [appellant's] work-related injury."

In a report dated April 3, 2019, Dr. Trina A. Poretta, an osteopath and Board-certified hematologist and oncologist, described the August 4, 2018 employment injury and noted that on February 1, 2019 appellant also experienced increasing pain and swelling of the left leg. She provided examination findings and diagnosed left posterior tibial vein thrombosis in a paired set of veins "following work-related injury with moving heavy box and strain at the left leg" and persistent swelling post-thrombotic syndrome. Dr. Poretta opined that "[i]t is likely that the event happened because of [August 4, 2018 employment] injury and decreased activity."

On May 29, 2019 appellant requested reconsideration. She alleged that she sustained a recurrence of her August 4, 2018 work injury. Appellant described that on February 1, 2019 she sought medical attention for discomfort and swelling behind her left knee. She reported that further testing showed that it was a blood clot that had developed due to her employment injury.

In a June 19, 2019 report, Dr. Poretta indicated that appellant had a follow-up ultrasound of the left leg, which revealed no evidence of DVT.[6] She provided examination findings and diagnosed acute embolism and thrombosis of left popliteal vein.

In a report dated July 29, 2019, Dr. Ashish Bedi, a Board-certified vascular surgeon, indicated that appellant was evaluated for left popliteal DVT that was diagnosed on February 1, 2019. He reviewed her history and noted examination findings of left ankle swelling.

By decision dated August 21, 2019, OWCP denied modification of the January 16, 2019 decision

Appellant subsequently submitted reports dated September 18, 2019 and January 31, 2020, by Dr. Poretta who noted that appellant was evaluated for left popliteal DVT caused by work-related injury and left leg strain. Dr. Poretta provided examination findings and reported that she believed that the work-related sprain injury caused stress on the blood vessels, which caused the DVT.

[5] A left leg venous duplex doppler ultrasound report dated February 1, 2019 showed DVT of the popliteal veins.

[6] A June 14, 2019 left leg venous duplex doppler ultrasound report revealed no evidence of DVT of either lower extremity.

OWCP received a letter and Form CA-17 dated July 29, 2019 by Dr. Bedi who recommended that appellant return to work with restrictions of walking and standing up to three hours per day.

In a report dated October 25, 2019, Dr. Kahn indicated that appellant was reevaluated for work-related injuries that she sustained on August 4, 2018. He recounted her complaints of posterior left knee pain and persistent swelling of the left lower extremity and conducted an examination. Dr. Kahn diagnosed healed post-traumatic left knee sprain, post-traumatic left hamstring tendonitis recurrent secondary to the healed sprain, and history of DVT left posterior tibial vein. He indicated that he reviewed a document from OWCP asking for an explanation regarding causal relationship between appellant's diagnosed conditions and the August 4, 2018 work incident. Dr. Kahn reported that she was diagnosed with a post-traumatic left knee sprain as a result of the August 4, 2018 employment injury. He explained that, due to the left knee pain, "[appellant] was ambulating with altered gait biomechanics on her left lower extremity[,] which does cause abnormalities with gait and the development of the hamstring tendonitis." Dr. Kahn also reported that the diagnosis of internal derangement was ruled out *via* diagnostic testing on September 5, 2018 and was, thereafter, left out of appellant's documentation from that point forward. He further reported that the diagnosed condition of DVT was not his area of expertise, so he would defer to Drs. Poretta and Bedi.

In reports dated October 3 and November 7, 2019, Dr. Bedi noted appellant's complaints of chronic left leg swelling and pain despite wearing compression stockings. He conducted an examination. Dr. Bedi assessed that appellant's left leg DVT had resolved and that she now had post phlebitis swelling.

In reports dated December 13, 2019 and January 17, 2020, Dr. Kahn again recounted appellant's complaints of chronic left knee pain and swelling despite the use of compression stockings. He conducted an examination and diagnosed healed post-traumatic left knee sprain, post-traumatic left hamstring tendinitis recurrent secondary to left knee sprain and altered gait mechanics, history of DVT of the left posterior tibial vein, clinical lymphedema of the left lower extremity, and chondromalacia of left patella.

On August 19, 2020 appellant requested reconsideration.

Appellant submitted additional medical evidence. In a report, work status note, and office visit notes dated March 11 and July 1, 2020, Dr. Keith V. Preis, a Board-certified neurologist, noted her complaints of pain, numbness, and swelling in the left leg following an August 4, 2018 employment injury. On examination of her left knee, Dr. Preis observed decreased range of motion and tenderness to palpation behind and above the left knee. He indicated that an electromyography and nerve conduction velocity study revealed abnormal electrophysiological testing of the bilateral lower extremities. Dr. Preis diagnosed pain in lower limb, abnormal gait, paresthesia, neck pain, spasm, sleep disorder, essential tremor, idiopathic peripheral neuropathy, and common peroneal neuropathy.

In a letter dated July 16, 2020, Dr. Poretta recounted that a February 1, 2019 ultrasound of the left lower extremity revealed a DVT of a paired left posterior tibial vein. She indicated that

appellant was placed on bedrest for a leg injury and explained that bedrest or sitting for long periods of time can cause DVT in the center of her legs since it is more likely for a clot to form.

In a letter dated August 17, 2020, Dr. James J. Sekel, an osteopath and Board-certified family medicine specialist, indicated that appellant had been suffering with chronic knee and leg pain with swelling for over a year. He reported that she had sustained a leg injury, which led to a DVT.

By decision dated November 3, 2020, OWCP denied modification of the August 21, 2019 decision.

On November 2, 2021 appellant requested reconsideration and submitted medical evidence.

In a report dated April 27, 2021, Dr. Susanna Shin, a vascular surgeon, recounted appellant's complaints of left lower extremity pain and swelling. She indicated that in August 2018 appellant sustained an overwork injury to the left lower extremity, including hamstring tendinitis and hamstring "sprain." On physical examination of appellant's lower extremity, Dr. Shin observed mild edema. She assessed DVT, hamstring tendinitis, lymphedema, and left lower extremity swelling.

In a July 6, 2021 progress note, Dr. Shin provided examination findings and indicated that a June 24, 2021 diagnostic imaging result demonstrated left lower extremity venous insufficiency. She reported that appellant had left lower extremity pain and swelling which are temporarily related to her overwork injury in 2018.

In a July 7, 2021 progress note, Dr. Sekel indicated that appellant was evaluated for routine follow-up for chronic left leg edema and neuropathy. He provided examination findings and assessed lymphedema and idiopathic neuropathy.

In reports dated August 5 and October 21, 2021, Dr. Laura E. Ross, an osteopath and Board-certified orthopedic surgeon, indicated that appellant was seen for further evaluation of her left knee, ankle, and left leg, which were injured at work on August 4, 2018. She recounted appellant's complaints of left leg swelling and pain. On examination of appellant's left leg, Dr. Ross observed significant swelling and pain with pressure over the patella. Sensation was diminished in the left leg. Dr. Ross diagnosed posterior left knee pain in the popliteal fossa, status-post hamstring injury secondary to pushing heavy cart after repetitive trauma, status post DVT of the left lower extremity with continued edema. She indicated that appellant was out of work for appellant's original August 4, 2018 employment injury to her hamstring and experienced a recurrence of the original injury on February 1, 2019 when she experienced swelling in the exact location of the previous injury.

By decision dated January 31, 2022, OWCP denied modification of its November 3, 2020 decision.

LEGAL PRECEDENT

Where an employee claims that, a condition not accepted or approved by OWCP was due to an employment injury, he or she bears the burden of proof to establish that the condition is causally related to the employment injury.[7]

The medical evidence required to establish causal relationship between a specific condition, as well as any attendant disability claimed, and the employment injury, is rationalized medical opinion evidence.[8] A physician's opinion on whether there is a causal relationship between the diagnosed condition and the implicated employment factor(s) must be based on a complete factual and medical background.[9] Additionally, the opinion of the physician 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 the specific employment factor(s) identified by the claimant.[10]

When an injury arises in the course of employment, every natural consequence that flows from that injury likewise arises out of the employment, unless it is the result of an independent intervening cause attributable to the claimant's own intentional misconduct.[11] Thus, a subsequent injury, be it an aggravation of the original injury or a new and distinct injury, is compensable if it is the direct and natural result of a compensable primary injury.[12]

ANALYSIS

The Board finds that appellant has not met her burden of proof to expand the acceptance of her claim to include left hamstring tendinitis, left knee internal derangement, and DVT causally related to the accepted August 8, 2018 employment injury.

Appellant submitted multiple reports and work status notes dated August 13, 2018 through January 17, 2020 by Dr. Kahn who indicated that she sought medical treatment for injuries that she sustained as a result of an August 4, 2018 employment injury. Dr. Kahn provided examination findings and diagnosed healed post-traumatic left knee sprain, post-traumatic left hamstring tendonitis recurrent secondary to the healed sprain, and history of DVT left posterior tibial vein.

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[7] *R.J.*, Docket No. 17-1365 (issued May 8, 2019); *W.L.*, Docket No. 17-1965 (issued September 12, 2018); *V.B.*, Docket No. 12-0599 (issued October 2, 2012); *Jaja K. Asaramo*, 55 ECAB 200, 204 (2004).

[8] *T.C.*, Docket No. 19-1043 (issued November 8, 2019); *M.W.*, 57 ECAB 710 (2006); *John D. Jackson*, 55 ECAB 465 (2004).

[9] *E.M.*, Docket No. 18-1599 (issued March 7, 2019); *Robert G. Morris*, 48 ECAB 238 (1996).

[10] *M.V.*, Docket No. 18-0884 (issued December 28, 2018); *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 345 (1989).

[11] *M.M.*, Docket No. 20-1557 (issued November 3, 2021); *I.S.*, Docket No. 19-1461 (issued April 30, 2020); *Charles W. Downey*, 54 ECAB 421 (2003).

[12] *J.M.*, Docket No 19-1926 (issued March 19, 2021); *Susanne W. Underwood (Randall L. Underwood)*, 53 ECAB 139, 141 n. 7 (2001).

He described that on August 4, 2018 appellant was unloading and pushing heavy bins of mail. Dr. Kahn opined that it was "very plausible" that this mechanism of injury caused her left knee hamstring tendinitis. He further explained that, when pushing off, the knee is in an extended position and puts excessive stress on the hamstring tendons. Dr. Kahn later indicated that due to the work-related left knee sprain and left knee pain, "appellant was ambulating with altered gait biomechanics on her left lower extremity[,] which does cause abnormalities with gait and the development of the hamstring tendonitis." His opinion that it was "plausible" that the August 4, 2018 injury caused appellant's left hamstring tendinitis, is speculative and equivocal in nature.[13] Accordingly, Dr. Kahn's opinion is insufficient to establish expansion of her claim.[14]

In reports dated March 11 and July 1, 2020, Dr. Preis indicated that appellant was evaluated for complaints of left pain, numbness, and swelling following an August 4, 2018 employment injury. He diagnosed pain in lower limb, abnormal gait, paresthesia, neck pain, spasm, sleep disorder, essential tremor, idiopathic peripheral neuropathy, and common peroneal neuropathy. Dr. Preis, however, did not provide an opinion on whether the accepted incident caused or contributed the additional conditions. 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.[15] Dr. Preis' reports, therefore, are of no probative value and are insufficient to establish expansion of the claim.

Likewise, in reports dated August 5 and October 21, 2021, Dr. Ross diagnosed posterior left knee pain in the popliteal fossa, status-post hamstring injury secondary to pushing heavy cart after repetitive trauma, status post DVT of the left lower extremity with continued edema, but did not opine on the cause of these conditions. For this reason, these reports are of no probative value and are insufficient to establish expansion of appellant's claim.[16]

In reports dated April 3, 2019 through July 16, 2020, Dr. Poretta noted that appellant was evaluated for left popliteal DVT caused by an employment injury and left leg strain. She indicated that she believed that the work-related sprain injury caused stress on the blood vessels, which caused the DVT. In her April 3, 2019 report, Dr. Poretta opined that "[i]t is likely that the event happened because of [August 4, 2018 employment] injury and decreased activity." The Board has had held that medical opinions that are speculative or equivocal in nature are of diminished probative value.[17] Dr. Poretta's opinion, therefore, is insufficient to meet appellant's burden of proof.

Appellant also submitted CA-17 forms from Drs. Kahn and Bedi; however, they did not provide an opinion on causal relationship between the additional diagnosed conditions and the

[13] *D.D.*, Docket No. 21-1029 (issued February 22, 2022).

[14] *See S.S.*, Docket No. 21-0837 (issued November 23, 2021).

[15] *R.P.*, Docket No. 20-0891 (issued September 20, 2021); *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

[16] *Id.*

[17] *A.D.*, Docket No. 21-0510 (issued September 29, 2022); *H.A.*, Docket No. 18-1455 (issued August 23, 2019).

accepted employment injury. As noted above, 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.[18] These form reports, therefore, are of no probative value and are insufficient to establish expansion of the claim.

In an August 13, 2018 Form CA-16, Part B -- attending physician's report, Dr. Kahn noted examination findings of tenderness and reduced range of motion. He diagnosed internal derangement and checked a box marked "Yes" noting that the condition was caused by repetitive movement. The Board has held that a mere conclusion without the necessary rationale is of limited probative value.[19]

The remaining medical evidence, including Dr. Baird's February 1, 2019 emergency room record, Dr. Bedi's July 29 through November 7, 2019 reports, Dr. Sekel's August 17, 2020 and July 7, 2021 notes, and Dr. Shin's April 27 and July 7, 2021 reports failed to provide an opinion on causal relationship between appellant's accepted August 4, 2018 employment injury and her diagnosed DVT condition.[20] Accordingly, these reports are of no probative value and insufficient to meet her burden of proof.[21]

As the medical evidence is insufficient to establish that the acceptance of her claim should be expanded to include left hamstring tendinitis, left knee internal derangement, and DVT as causally related to her accepted August 4, 2018 employment injury, the Board finds that appellant has not met her 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 her burden of proof to expand the acceptance of her claim to include left hamstring tendinitis, left knee internal derangement, and DVT causally related to the accepted August 8, 2018 employment injury.

[18] *Supra* note 16.

[19] *See M.F.*, Docket No. 21-0533 (issued January 31, 2023); *A.P.*, Docket No. 19-0224 (issued July 11, 2019); *Victor J. Woodhams*, *supra* note 10.

[20] *See A.H.*, Docket No. 18-1632 (issued June 1, 2020); *D.K.*, Docket No. 17-1549 (issued July 6, 2018); *see L.B.*, *supra* note 15.

[21] *G.D.*, Docket No. 20-0966 (issued July 21, 2022).

ORDER

IT IS HEREBY ORDERED THAT the January 31, 2022 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: February 28, 2023
Washington, DC

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

Patricia H. Fitzgerald, Deputy Chief Judge
Employees' Compensation Appeals Board

Janice B. Askin, Judge
Employees' Compensation Appeals Board