

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

M.O., Appellant)

and)

DEPARTMENT OF THE ARMY, U.S. ARMY)
INSTALLATION MANAGEMENT)
COMMAND, DIRECTORATE OF)
EMERGENCY SERVICES, Fort Meade, MD,)
Employer)
_____)

**Docket No. 21-0940
Issued: January 25, 2023**

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

Case Submitted on the Record

DECISION AND ORDER

Before:

PATRICIA H. FITZGERALD, Deputy Chief Judge
JANICE B. ASKIN, Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On June 8, 2021 appellant filed a timely appeal from a January 14, 2021 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.

ISSUE

The issue is whether appellant has met his burden of proof to establish a medical condition causally related to the accepted February 3, 2020 employment incident.

¹ 5 U.S.C. § 8101 *et seq.*

FACTUAL HISTORY

On February 3, 2020 appellant, then a 40-year-old firefighter, filed a traumatic injury claim (Form CA-1) alleging that on that date he sustained a back and left lower extremity injury while in the performance of duty.² He stated that, while conducting hose advancement drills, he backed up, lost his footing, and tripped backward, landing awkwardly on his back. Appellant felt a popping sensation in his left leg and experienced pain radiating up his back. He stopped work on February 4, 2020.

In a February 4, 2020 hospital emergency department report, Dr. Islam Al-Junaidi, a Board-certified internist, ordered left knee and lumbar x-rays. Dr. Joseph G. Livingston, a Board-certified radiologist, reviewed left knee x-rays obtained that day and compared them to a June 19, 2015 magnetic resonance imaging (MRI) scan of the left knee. He opined that the left knee x-rays were negative for fracture or dislocation. Dr. Ravi S. Kasat, a Board-certified radiologist, opined that, lumbar x-rays obtained that day showed no fracture or dislocation.

In a February 4, 2020 medical excuse slip, Dr. Al-Junaidi released appellant from work through February 11, 2020.

In a February 12, 2020 emergency department report, Dr. Al-Junaidi ordered x-rays of the left hip, pelvis, sacrum, and coccyx. He diagnosed closed fracture of sacrum and coccyx, initial encounter, and left hip pain. Dr. Niloy Dasgupta, a Board-certified radiologist, opined that left hip, sacrum, and coccyx x-rays obtained that day were negative for fracture or malalignment.

In a March 2, 2020 development letter, OWCP informed appellant of the deficiencies of his claim. It advised him of the type of factual and medical evidence needed and provided a questionnaire for his completion. OWCP afforded appellant 30 days to respond.

In response, appellant submitted a February 25, 2020 report by Dr. Jeremie Axe, a Board-certified orthopedic surgeon, noting a February 3, 2020 left knee injury and lumbar symptoms. Dr. Axe diagnosed a herniated lumbar disc. He ordered imaging studies and prescribed medication.

A February 28, 2020 lumbar MRI scan reviewed by Dr. Alberto Iaia, a Board-certified radiologist, noted appellant's history of back pain and radiculopathy. He opined that the study demonstrated disc desiccation, a mild annular bulge at L2-3 without spinal stenosis or foraminal narrowing, and minimal facet joint osteoarthritis at L5-S1.

In an attending physician's report (Form CA-20) dated February 11, 2020, Dr. Nadiene Haynes, a physician specializing in family medicine, noted that appellant was injured when pulling a fire hose, slipped, and landed on his back. She diagnosed lumbar sprain and knee pain. Dr. Haynes checked a box marked "Yes" to indicate her opinion that appellant's condition was caused or aggravated by his employment.

² Appellant has a prior claim accepted for an April 16, 2015 sprain of the medial collateral ligament of the left knee under OWCP File No. xxxxxx635. Appellant's claims have not been administratively combined by OWCP.

In a February 11, 2020 duty status report (Form CA-17), Dr. Axe diagnosed a lumbar sprain related to the February 3, 2020 incident and held appellant off from work.

Dr. Axe, in March 12, 2020 reports, noted that appellant had no relevant past medical or surgical history prior to the claimed February 3, 2020 employment incident. He related that on February 3, 2020 appellant slipped and fell directly onto his back when he pulled a hose away from a building while at work. Appellant experienced immediate lumbar pain radiating into the left lower extremity. A lumbar MRI scan demonstrated a small, herniated disc. Dr. Axe prescribed medication, which relieved appellant's symptoms. He diagnosed a herniated lumbar disc and left leg pain. Dr. Axe opined that this diagnosis was "directly related to [appellant's] fall as he had no preexisting pain in his back or pain down his leg." He returned appellant to full-duty work effective March 16, 2020.

By decision dated April 2, 2020, OWCP accepted that the February 3, 2020 employment incident occurred as alleged, but denied the claim, finding that the medical evidence of record was insufficient to establish causal relationship between appellant's diagnosed conditions and the accepted February 3, 2020 employment incident.

OWCP received an undated statement by the employing establishment asserting that appellant had been injured while in the performance of duty when advancing hand lines during a training exercise. It specified that at "the time of injury [appellant] was operating in the capacity of a firefighter in his duties."

On April 10, 2020 appellant requested reconsideration.

In an April 20, 2020 Form CA-20, Dr. Axe noted that on February 3, 2020 appellant was "at fire academy pulling a hose, slipped [and] fell onto his back." He diagnosed a herniated nucleus pulposus of lumbar spine. Dr. Axe opined that the diagnosis was "related to direct fall onto back" while at work and checked a box marked "Yes" to indicate his opinion that appellant's condition was caused or aggravated by his employment. He explained that the condition was "caused by fall at work" and found appellant totally disabled from work from February 25 through March 12, 2020. Dr. Axe returned appellant to full duty effective March 16, 2020.

By decision dated July 8, 2020, OWCP denied modification of its prior decision.

In an August 4, 2020 report, Dr. Axe noted that he first treated appellant on February 25, 2020 for lumbar and left knee pain related to the February 3, 2020 employment incident. He opined that the herniated lumbar disc demonstrated by the February 28, 2020 MRI scan study was "directly caused by [appellant's] fall on February 3, 2020."

On October 16, 2020 appellant requested reconsideration. He submitted a witness statement by coworker A.B., who recalled that on February 3, 2020 appellant pulled a hose from a building during training, tripped, and fell directly onto his back.

By decision dated January 14, 2021, OWCP denied modification of its prior decision.

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. There are two components involved in establishing fact of injury. The first component is that the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time and place, and in the manner alleged. The second component is whether the employment incident caused a personal injury.⁷

The medical evidence required to establish causal relationship between a claimed specific condition and an employment incident 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 factors identified by the employee.⁹

In any case where a preexisting condition involving the same part of the body is present and the issue of causal relationship therefore involves aggravation, acceleration, or precipitation, the physician must provide a rationalized medical opinion that differentiates between the effects of the work-related injury or disease and the preexisting condition.¹⁰

³ *Supra* note 1.

⁴ *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); *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.H.*, Docket No. 19-0599 (issued January 28, 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 *D.K.*, Docket No. 21-0214 (issued September 29, 2021); *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).

¹⁰ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3e (January 2013); *G.T.*, Docket No. 21-0170 (issued September 29, 2021); *D.W.*, Docket No. 20-0674 (issued September 29, 2020).

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish a medical condition causally related to the accepted February 3, 2020 employment incident.

Dr. Al-Junaidi, in reports dated February 4 and 12, 2020, diagnosed a closed fracture of the sacrum and coccyx, and left hip pain. He held appellant off from work through February 11, 2020. However, Dr. Al-Junaidi offered no opinion on causal relationship in these reports. Medical evidence that fails to address causation is of no probative value on that issue.¹¹ As such, these reports are insufficient to meet appellant's burden of proof.

In a February 11, 2020 Form CA-20, Dr. Haynes noted that appellant had been injured when pulling a fire hose, slipped, and landed on his back. She indicated support for causal relationship by checking a box marked "Yes." The Board has held, however, that an opinion on causal relationship with an affirmative check mark, without more by the way of medical rationale, is insufficient to establish the claim.¹² Therefore, this evidence is insufficient to meet appellant's burden of proof.

In reports dated February 25 through August 4, 2020, Dr. Axe noted the accepted February 3, 2020 employment incident and diagnosed a herniated lumbar disc. He opined on March 12, April 20, and August 4, 2020 that the herniated lumbar disc was directly related to the February 3, 2020 slip and fall, based upon the mechanism described by appellant, and findings documented within his medical record. While he discussed the February 3, 2020 employment incident and other aspects of appellant's medical history, Dr. Axe did not offer a rationalized medical opinion explaining how that incident caused appellant's diagnosed conditions.¹³ 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 incident physiologically caused or aggravated the diagnosed conditions.¹⁴ Dr. Axe's reports are, therefore, of limited probative value and insufficient to establish causal relationship.

Finally, the record also contains the February 4, 2020 left knee x-rays, February 12, 2020 x-rays of the left hip, pelvis, sacrum, and coccyx, and a February 28, 2020 lumbar MRI scan. The Board has long held, however, that diagnostic studies, standing alone, lack probative value as they

¹¹ *C.G.*, Docket No. 20-0957 (issued January 27, 2021); *L.G.*, Docket No. 20-0433 (issued August 6, 2020); *S.D.*, Docket No. 20-0413 (issued July 28, 2020); *S.K.*, Docket No. 20-0102 (issued June 12, 2020); *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

¹² *C.S.*, Docket No. 21-0051 (issued September 2, 2021); *see D.S.*, Docket No. 21-0037 (issued May 27, 2021); *Richard G. Chasse*, Docket No. 99-1574 (issued June 27, 2000).

¹³ *J.N.*, Docket No. 21-0606 (issued November 23, 2021); *T.W.*, Docket No. 20-0767 (issued January 13, 2021); *see H.A.*, Docket No. 18-1466 (issued August 23, 2019); *L.R.*, Docket No. 16-0736 (issued September 2, 2016).

¹⁴ *T.G.*, Docket No. 21-0175 (issued June 23, 2021); *J.D.*, Docket No. 19-1953 (issued January 11, 2021); *see K.W.*, Docket No. 19-1906 (issued April 1, 2020).

do not provide an opinion regarding the cause of the diagnosed conditions.¹⁵ These diagnostic studies are, therefore, insufficient to establish appellant's claim.

As the evidence of record is insufficient to establish a medical condition causally related to the accepted employment incident, the Board finds that appellant 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 medical condition causally related to the accepted February 3, 2020 employment incident.

ORDER

IT IS HEREBY ORDERED THAT the January 14, 2021 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: January 25, 2023
Washington, DC

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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

¹⁵ *L.T.*, Docket No. 20-0582 (issued November 15, 2021); *L.B.*, Docket No. 19-1907 (issued August 14, 2020); *J.K.*, Docket No. 20-0591 (issued August 12, 2020).