

ISSUE

The issue is whether appellant has met her burden of proof to establish right hip and lower back conditions causally related to the accepted factors of her federal employment.

FACTUAL HISTORY

On May 17, 2021 appellant, then a 57-year-old city carrier, filed an occupational disease claim (Form CA-2) alleging that she sustained a labral tear of the right hip and partial tear of the gluteus minimus due to factors of her federal employment. She indicated that she first became aware of the conditions on January 5, 2020 and realized their relationship to her federal employment on March 6, 2020.

On April 7, 2021 appellant was seen by Dr. Srino Bharam, a Board-certified orthopedic surgeon, for a right hip arthroscopic procedure and a right iliac crest bone marrow aspirate injection to the gluteus medius and minimus partial tendon tear. The preoperative and postoperative diagnoses were right gluteus medius and minimus tendon labral tear.

In a narrative statement dated April 16, 2021, appellant indicated that she started having lower back pain within a few weeks of her return to work following bilateral carpal tunnel and thumb release surgery. She continued to work her entire route with a 35-pound restriction from her surgeon. Appellant eventually felt extreme pain and was diagnosed with trochanteric bursitis of the right hip. She was given job restrictions but then was told that she suffered a hip tear and was not cleared to return to work.

A work status note signed by Dr. Bharam on May 10, 2021 indicated that appellant had a debilitating right hip condition and remained off work. A report from Dr. Bharam dated May 11, 2021 indicated that appellant's hip pain and lumbar spine symptoms began in January 2020 and that symptoms were aggravated by her employment. He explained that they were exacerbated with prolonged sitting, driving, walking, and bending over. Diagnostic imaging revealed trochanteric bursitis, labral tear of the right hip, partial tear of the gluteus minimus, osteoarthritis bilaterally, and spondylitis of the lumbar spine. Dr. Bharam diagnosed right gluteus medius tendon tear, right hip labral tear, and lumbar spine pain. He concluded that appellant was unable to return to work without restrictions.

Duty status reports (Form CA-17) dated April 16 and May 11, 2021 from Dr. Bharam indicated a diagnosis of tear of gluteus medius due to injury and listed lumbar spine pain as another disabling condition.

In a development letter dated May 18, 2021, 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 provided a questionnaire for her completion. OWCP afforded appellant 30 days to respond.

A magnetic resonance (MR) arthrogram report of the right hip dated May 25, 2021 from Dr. Timothy W. Deyer, a Board-certified diagnostic radiologist, indicated: (1) partial-thickness superficial tear of the insertion of the gluteus medius tendon with tendinosis and peritendinitis;

(2) mild wear of articular cartilage over the posterosuperior femoral head and acetabulum; (3) gluteus minimus tendinosis; and bone marrow edema within the iliac wing, possibly postsurgical.

In a completed questionnaire received on June 3, 2021, appellant indicated that she felt lower back pain upon her return to work on March 6, 2020 when she pushed parcel hampers to her truck. She did not experience this pain prior to her bilateral carpal tunnel surgery. Appellant noted a sharp pain after a few months when she loaded her truck, and she sought medical attention in August 2020. From March 2020 to April 5, 2021, she worked full duty with the 35-pound restriction and believed that her hip tear was caused by pushing parcel hampers and loading the truck.

A note from Dr. Bharam dated June 24, 2021 reiterated that appellant had a debilitating right hip condition and that she remained off work.

By decision dated August 12, 2021, OWCP denied appellant's occupational disease claim, finding that she had not established that her diagnosed right hip and lower back conditions were causally related to the accepted factors of her federal employment.

On September 9, 2021 appellant, through counsel, requested a telephonic hearing before a representative of OWCP's Branch of Hearings and Review.

OWCP thereafter received a magnetic resonance imaging (MRI) report of the right hip dated August 6, 2020 from Dr. Barry Julius, a diagnostic radiology specialist, which indicated: (1) possible low-grade right-sided greater trochanteric bursitis; (2) no acute osseous pathology; and (3) mild osteoarthritic change at the bilateral hip joints.

On August 11, 2021 appellant underwent: (1) right hip arthroscopic labral repair; (2) acetabuloplasty; (3) femoral neck osteoplasty; (4) partial synovectomy; (5) capsular repair; (6) trochanteric bursectomy; and (7) gluteus medius tendon repair. Dr. Bharam listed preoperative and postoperative diagnoses of: (1) right hip anterior superior labral tear; (2) pincer impingement; (3) cam femoroacetabular impingement; (4) gluteus medius tendon tear; and (5) trochanteric bursitis.

A note from Dr. Bharam dated December 10, 2021 reiterated the procedures appellant underwent on August 11, 2021 and indicated that she continued to have debilitating coccyx and bilateral hip pain. Appellant was held off work as she was totally disabled.

A note from Dr. Nudrat Ayub, an internist, also dated December 10, 2021, indicated appellant's surgical history and her work limitations. She further indicated that appellant had: (1) right hip anterior superior labral tear; (2) degenerative disease of the cervical and lumbar spine; (3) gluteus medius tendon tear; (4) trochanteric bursitis; and (5) bilateral significant carpal tunnel syndrome. Dr. Ayub opined that appellant was unable to carry out her employment duties.

On January 4, 2022 a telephonic hearing was held before a representative of OWCP's Branch of Hearings and Review.

OWCP continued to receive medical evidence. On August 22, 2020 appellant was seen by Dr. Hadi Moten, a Board-certified anesthesiologist and pain medicine specialist. She related right greater trochanteric bursa pain which would worsen during prolonged standing and walking. Dr. Moten reviewed MRI reports of the lumbar spine and right hip and assessed: (1) right hip trochanteric bursitis; (2) right hip pain; (3) axial low back pain; (4) left ankle pain and joints of left foot pain; and (5) right thumb pain. A postoperative note of even date indicated that Dr. Moten administered a right greater trochanteric bursa steroid injection.

On October 19, 2020 appellant was seen by Dr. Moten for a follow-up appointment. She related lower back pain that radiated into her right buttock and down the right lower extremity. Dr. Moten in addition to his prior diagnoses assessed lumbar radiculopathy. On October 27, 2020 he administered another right lumbar transforaminal epidural steroid injection at L3-4, L4-5, L5-S1. In a progress note dated November 12, 2020, Dr. Moten reiterated his prior diagnoses and also noted an assessment of inflammatory spondylopathy of the lumbar spine, lumbar facet joint syndrome.

On January 7, 2021 appellant was seen by Dr. Moten for a follow-up appointment. She related that her right hip bursa pain had returned. Dr. Moten noted appellant's prior diagnoses. On January 23, 2021 he administered a bilateral lumbar medial branch block at L2, L3, L4, and L5 dorsal ramus for bilateral facet joints L3-L4, L4-5, and L5-S1.

On February 22, 2021 appellant again was seen for a follow up with Dr. Moten. She related continued lower back pain that wrapped around her right hip and traveled down to her foot. Dr. Moten assessed: (1) other intervertebral disc displacement; (2) radiculopathy, lumbar region; (3) low back pain; (4) and other specified lumbar inflammatory spondylopathies, lumbar region. On March 20, 2021 he administered a left lumbar transforaminal epidural steroid injection at L4-5, L5-S1, and S1.

In a letter dated January 26, 2022, Dr. Bharam reiterated appellant's history that her right hip pain developed in January 2020. He noted that her job requirements of using her entire body to push hampers of mail and maneuvered her body to place parcels into a truck. Appellant repeatedly twisted her body which placed stress on her right hip and lumbar spine. Dr. Bharam further noted that appellant had returned to work on March 6, 2020 after a carpal tunnel surgery and stopped again in April 2021 due to debilitating right hip pain. He opined that there was a causal relationship between appellant's repetitive work activities, and her gluteus medius tendon tear and lumbar spine pain. Dr. Bharam noted that appellant's work activities included extensive prolonged lifting, carrying, and that these motions also aggravated her right hip labral tear and femoroacetabular impingement. He summarized appellant's history of medical treatment from August 11, 2021, which Dr. Bharam opined was a result of her work-related right hip labral tear and gluteus partial minimus tear. Dr. Bharam evaluated appellant and noted she continued to have debilitating coccyx and contralateral compensatory left hip and right hip pain that limited her work activities. He opined that her repetitive twisting, pushing, and carrying caused her work injuries and she remained totally disabled.

By decision dated March 14, 2022, an OWCP hearing representative vacated OWCP's August 12, 2021 decision and remanded the case to OWCP. The hearing representative related that OWCP should obtain additional progress notes from Dr. Bharam and a supplemental report

explaining how appellant's repetitive employment directly caused her right gluteus medius tendon tear and aggravated her right hip labral tear and femoroacetabular impingement. Dr. Bharam was also asked to address whether appellant had a lumbar diagnosis causally related to her accepted employment factors based on objective findings.

In a report dated March 25, 2022, Dr. Bharam reiterated his opinion that appellant's accepted employment factors, including prolonged lifting, carrying, and ambulation, placed stress on her right hip and back which caused her gluteus medius tendon tear and lumbar spine pain and aggravated her right hip labral tear femoroacetabular impingement. He also indicated that appellant was unable to return to work indefinitely due to her inability to perform her necessary duties without extreme pain and discomfort. Dr. Bharam indicated that appellant was unable to weight bear in excess of five minutes, walk more than three city blocks, and ascend and descend steps "without significant bilateral hip and back pain."

On November 9, 2022 OWCP sent a statement of accepted facts (SOAF) to Dr. Bharam along with a request for a supplemental medical report. Dr. Bharam was asked to provide current progress notes, as well as clarification, supported by medical rationale, regarding causal relationship between appellant's diagnosed medical conditions and the accepted factors of her federal employment.

In response, OWCP received a report dated May 2, 2022 from Dr. Bharam that reiterated his opinion regarding causal relationship as set forth in his prior March 25, 2022 letter. Dr. Bharam added that appellant was still unable to return to work and that he had currently ordered a postoperative right hip MRI scan to assess appellant's lateral hip symptoms status post gluteus medius tendon repair of August 11, 2021.

OWCP further received a completed work capacity evaluation (Form OWCP-5c) dated December 2, 2022 by Dr. Bharam. Dr. Bharam indicated that appellant was totally disabled from work.

In a report dated December 8, 2022, Dr. Bharam reiterated his opinion regarding causal relationship as set forth in his previous reports. He also indicated that a postoperative MRI scan of appellant's right hip taken on June 16, 2022 revealed that the joint space was maintained and the labrum was repaired. The repair site to the minimus was intact but there was a new partial tear of the gluteus minimus with associated enthesyophyte. Dr. Bharam noted that appellant had continued right hip pain secondary to the gluteus medius tear, which indicated a need for a bone marrow aspirate injection with needle scope camera and diagnostic examination of the right gluteus medius.

By decision dated December 15, 2022, OWCP denied appellant's occupational disease claim, finding that she had not established that her diagnosed conditions were causally related to the accepted factors of her 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, 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 establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit: (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 identified employment factors by the claimant.⁶

Causal relationship is a medical question that requires rationalized medical opinion evidence to resolve the issue.⁷ 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.⁸ Neither the mere fact that a disease or condition manifests itself during a period of employment, nor the belief that the disease or condition was caused or aggravated by employment factors or incidents is sufficient to establish causal relationship.⁹

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish right hip and lower back conditions causally related to the accepted factors of her federal employment.

³ *Id.*

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 *B.H.*, Docket No. 20-0777 (issued October 21, 2020); *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 *S.H.*, Docket No. 22-0391 (issued June 29, 2022); *T.W.*, Docket No. 20-0767 (issued January 13, 2021); *L.D.*, Docket No. 19-1301 (issued January 29, 2020); *S.C.*, Docket No. 18-1242 (issued March 13, 2019).

⁷ *D.S.*, Docket No. 21-1388 (issued May 12, 2022); *I.J.*, Docket No. 19-1343 (issued February 26, 2020); *T.H.*, 59 ECAB 388 (2008); *Robert G. Morris*, 48 ECAB 238 (1996).

⁸ *D.S. id.*; *D.J.*, Docket No. 19-1301 (issued January 29, 2020).

⁹ *T.M.*, Docket No. 22-0220 (issued July 29, 2022); *S.S.*, Docket No. 18-1488 (issued March 11, 2019); *see also J.L.*, Docket No. 18-1804 (issued April 12, 2019).

Appellant submitted reports dated May 11, 2021, and January 26, March 25, May 2, and December 8, 2022 from Dr. Bharam. Dr. Bharam opined that the accepted employment factors caused appellant's diagnoses of gluteus medius tendon tear and lumbar spine pain, aggravated her right hip labral tear and femoroacetabular impingement, and resulted in her disability from work. He noted that pushing hampers of mail placed stress on her right hip and lumbar spine due to repeatedly twisting her body. Dr. Bharam further noted that prolonged lifting, carrying, ambulation, sitting, driving, walking, and bending over aggravated appellant's symptoms. While he offered an opinion on the causal relationship between the diagnosed conditions and appellant's accepted employment factors, Dr. Bharam did not provide a pathophysiological explanation as to how those activities either caused or contributed to her diagnosed conditions. The Board has held that a report is of limited probative value regarding causal relationship if it does not contain medical rationale explaining how a given medical condition was related to accepted employment factors.¹⁰ Thus, the Board finds that Dr. Bharam's reports are insufficient to establish appellant's claim. Further, under FECA, the assessment of pain is not considered a compensable medical diagnosis, as pain merely refers to a symptom of an underlying condition.¹¹ For these reasons, Dr. Bharam's reports are insufficient to establish appellant's claim.

In his May 10, 2021 work status note, June 24 and December 10, 2021 notes, and April 16 and May 11, 2021, and December 2, 2022 CA-17 forms, Dr. Bharam reiterated that appellant had a debilitating right hip condition and that she remained totally disabled from work. His remaining April 7 and August 11, 2021 reports addressed appellant's right hip conditions and medical treatment. However, these reports did not offer an opinion on causal relationship. 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.¹² Thus, the Board finds that the evidence from Dr. Bharam is insufficient to establish appellant's claim.

Similarly, Dr. Moten's progress notes and reports dated August 22, 2020 through March 20, 2021 and Dr. Ayub's December 10, 2021 note addressed appellant's right hip and lumbar spine conditions, medical treatment, and work capacity, but neither physician provided an opinion on causal relationship. As noted, the Board has held that a medical opinion lacking an opinion on causal relationship is of no probative value.¹³ These reports are, therefore, also insufficient to establish appellant's claim.

Appellant also submitted Dr. Deyer's May 24, 2021 right hip MR arthrogram report and Dr. Julius' August 6, 2020 right hip MRI scan report. However, the Board has held that diagnostic studies, standing alone, lack probative value as they do not address whether the employment

¹⁰ See *K.K.*, Docket No. 22-0270 (issued February 14, 2023); *I.D.*, Docket No. 22-0848 (issued September 2, 2022); *V.T.*, Docket No. 18-0881 (issued November 19, 2018).

¹¹ *J.L.*, Docket No. 20-1662 (issued October 7, 2022); *D.B.*, Docket No. 21-0550 (issued March 7, 2022).

¹² See *K.K.*, *supra* note 10; *S.J.*, Docket No. 19-0696 (issued August 23, 2019); *M.C.*, Docket No. 18-0951 (issued January 7, 2019); *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

¹³ *Id.*

incident caused any of the diagnosed conditions.¹⁴ Accordingly, these diagnostic studies are insufficient to establish appellant's claim.

As the medical evidence of record is insufficient to establish causal relationship between the diagnosed medical conditions and the accepted factors of appellant's federal employment, the Board finds that she 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 establish right hip and lower back conditions causally related to the accepted factors of her federal employment.

ORDER

IT IS HEREBY ORDERED THAT the December 15, 2022 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: July 28, 2023
Washington, DC

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

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

James D. McGinley, Alternate Judge
Employees' Compensation Appeals Board

¹⁴ See *C.S.*, Docket No. 22-0545 (issued March 22, 2023); *H.E.*, Docket No. 22-1129 (issued December 16, 2022); *M.S.*, Docket No. 22-0586 (issued July 12, 2022); *C.B.*, Docket No. 20-0464 (issued July 21, 2020).