

Federal Employees' Compensation Act³ (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

ISSUES

The issues are: (1) whether appellant has met his burden of proof to establish that the acceptance of his claim should be expanded to include the additional conditions as causally related to his accepted February 20, 2018 employment injury; and (2) whether appellant has met his burden of proof to establish disability from work for the period October 31 through December 16, 2019 causally related to his accepted February 20, 2018 employment injury.

FACTUAL HISTORY

On February 27, 2018, appellant, then a 29-year-old city carrier assistant, filed a traumatic injury claim (Form CA-1) alleging that on February 20, 2018 he injured his low back and right hip when he stepped off a curb with his right leg and fell forward, twisting to the right while in the performance of duty. He stopped work on February 23, 2018 and returned to a limited-duty work assignment in April 2018. On April 16, 2018 OWCP accepted the claim for lower back and right hip strains.

On May 25, 2018 appellant underwent a right hip magnetic resonance imaging (MRI) scan, which demonstrated a tear in the anterosuperior labrum and high-grade to full-thickness chondral loss of the anterior femoral head.

In a July 17, 2018 report, Dr. Vladimir Khapchik, a Board certified orthopedic surgeon, described appellant's February 20, 2018 work incident of stepping off a curb and experiencing pain in his right hip. He performed a physical examination and found limited range of motion of the right hip with impingement. Dr. Khapchik reviewed appellant's MRI scan and diagnosed femoro-acetabular impingement with mild hip dysplasia. He recommended hip surgery.

On October 4 and 18 and November 1, 2018, Dr. Charles Alan Potter, a Board-certified family practitioner, diagnosed right hip labrum tear and right hip muscle strain.

On November 26, 2019 appellant filed a claim for compensation (Form CA-7) for disability from work during the period October 31 through November 25, 2019.

In a December 10, 2019 development letter, OWCP informed appellant of the deficiencies of his claim for disability during the period October 31 through November 25, 2019. It advised him of the type of medical evidence needed to establish the claim and afforded him 30 days to respond.

On December 16, 2019 appellant submitted a Form CA-7 for disability from work for the period November 26 through December 16, 2019.

³ 5 U.S.C. § 8101 *et seq.*

In a December 26, 2019 development letter, OWCP informed appellant of the deficiencies of his claim for disability during the period November 26 through December 16, 2019. It advised him of the type of medical evidence needed to establish the claim and afforded him 30 days to respond.

Appellant subsequently submitted an August 8, 2019 employing establishment decision regarding his formal Equal Employment Opportunity complaint, which addressed alleged discriminatory harassment beginning in 2018 due to race, color, sex, and physical disability resulting from charges of absence without leave, and directions to sweep the office when there was no work available within his restrictions.

In an April 2, 2020 note, Dr. Theodore Scott Bucklin, a Board-certified orthopedic surgeon, described appellant's history of injury and diagnosed right femoral acetabular impingement based on MRI scan. He recommended surgery. Dr. Bucklin found that appellant was partially disabled from April 2 through June 30, 2020 and could return to full-duty work on July 1, 2020.

By decision dated July 28, 2020, OWCP denied appellant's claim for compensation for disability from work for the period October 31 through December 16, 2019. On August 10, 2020 appellant, through counsel, requested a telephonic hearing before a representative of OWCP's Branch of Hearings and Review.

OWCP subsequently received a July 6, 2020 right hip MRI scan report, which demonstrated minimal tear of the anterior labrum and chondral fissuring of the anterior femoral and acetabular cartilage.

A hearing was held on November 13, 2020.

Following the telephonic hearing, appellant submitted additional evidence, including an August 8, 2019 grievance and a May 11, 2019 grievance decision, finding that his June 14, 2018 notice of removal should be rescinded and reduced to a one-half time-served suspension and one-half make-whole remedy, with an immediate return to duty. He was reinstated for work beginning December 15, 2018.

On September 6, 2018 Dr. Bucklin described appellant's February 2018 employment injury and persistent right hip pain. He reviewed appellant's May 26, 2018 MRI scan and diagnosed right hip labrum tear and right femoral acetabular impingement. Dr. Bucklin recommended surgery.

On July 6, 2020 appellant underwent a right hip computerized tomography (CT) scan which demonstrated femoral acetabular impingement and developmental dysplasia of the hip with secondary arthritis change.

By decision dated February 8, 2021, OWCP's hearing representative denied appellant's disability claims, finding that the medical evidence of record was insufficient to establish disability from work during the period October 31 through December 16, 2019 due to his accepted February 20, 2018 employment injury. He further found that the medical evidence of record was

insufficient to establish any additional conditions causally related to appellant's accepted February 20, 2018 employment injury.

LEGAL PRECEDENT -- ISSUE 1

An employee seeking benefits under FECA⁴ has the burden of proof to establish the essential elements of his or her claim, including the fact that he or she is an employee of the United States within the meaning of FECA, that the claim was filed within the applicable time limitation, that an injury was sustained while in the performance of duty as alleged, and that any disability or specific condition for which compensation is claimed is causally related to the employment injury.⁵

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.⁶

To establish causal relationship between a condition and the employment event or incident, the employee must submit rationalized medical opinion evidence based on a complete factual and medical background, supporting such a causal relationship.⁷ The opinion of the physician must be one of reasonable certainty, and must explain the nature of the relationship between the diagnosed condition and the accepted employment injury.⁸

ANALYSIS -- ISSUE 1

The Board finds that appellant has not met his burden of proof to establish that the acceptance of his claim should be expanded to include additional conditions as causally related to his accepted February 20, 2018 employment injury.

Appellant submitted a series of medical reports in support of his claim. In reports dated February 20, 2018 through April 2, 2020, Drs. Khapchick, Bucklin, and Potter described appellant's February 2018 employment injury and noted diagnoses. These physicians did not, however, offer a medical opinion as to whether appellant's diagnosed conditions were causally related to the accepted employment incident. The Board has held that medical evidence that does not provide an opinion regarding the cause of an employee's condition is of no probative value on

⁴ *Id.*

⁵ *See L.T.*, Docket No. 19-1794 (issued October 2, 2020); *C.W.*, Docket No. 17-1636 (issued April 25, 2018).

⁶ *K.T.*, Docket No. 19-1718 (issued April 7, 2020); *Jaja K. Asaramo*, 55 ECAB 200 (2004).

⁷ *D.E.*, Docket No. 20-0936 (issued June 24, 2021); *S.L.*, Docket No. 19-0603 (issued January 28, 2020); *T.E.*, Docket No. 18-1595 (issued March 13, 2019); *T.F.*, Docket No. 17-0645 (issued August 15, 2018); *Jaja K. Asaramo*, *supra* note 6.

⁸ *Id.*

the issue of causal relationship.⁹ Therefore, these medical reports are insufficient to establish expansion of the acceptance of the claim.

Appellant also submitted diagnostic studies, including MRI and CT scans, noting findings in his right hip. The Board has held, however, that diagnostic studies, standing alone, lack probative value on the issue of causal relationship as they do not provide an opinion on causal relationship between an employment incident and a diagnosed condition.¹⁰

As the medical evidence of record is insufficient to establish causal relationship between any additional diagnosed conditions and the accepted February 20, 2018 employment injury, 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.

LEGAL PRECEDENT -- ISSUE 2

An employee seeking benefits under FECA¹¹ has the burden of proof to establish the essential elements of his or her claim including that any disability or specific condition for which compensation is claimed is causally related to the employment injury.¹² Under FECA the term disability means incapacity, because of an employment injury, to earn the wages that the employee was receiving at the time of injury.¹³ For each period of disability claimed, the employee has the burden of proof to establish that he or she was disabled from work as a result of the accepted employment injury.¹⁴ Whether a particular injury causes an employee to become disabled from work, and the duration of that disability, are medical issues that must be proven by a preponderance of probative and reliable medical opinion evidence.¹⁵

The Board will not require OWCP to pay compensation for disability in the absence of medical evidence directly addressing the specific dates of disability for which compensation is

⁹ V.G., Docket No. 20-0982 (issued June 17, 2021); S.K., Docket No. 20-0102 (issued June 12, 2020); M.M., Docket No. 20-0019 (issued May 6, 2020).

¹⁰ D.S., Docket No. 20-0584 (issued June 15, 2021); R.C., Docket No. 20-1525 (issued June 8, 2021); G.M., Docket No. 14-2057 (issued May 12, 2015); V.R., Docket No. 14-1695 (issued January 9, 2015); *Carolyn F. Allen*, 47 ECAB 240, 246 (1995).

¹¹ *Supra* note 3.

¹² D.S., Docket No. 20-0638 (issued November 17, 2020); F.H., Docket No. 18-0160 (issued August 23, 2019); C.R., Docket No. 18-1805 (issued May 10, 2019); *Kathryn Haggerty*, 45 ECAB 383 (1994); *Elaine Pendleton*, 40 ECAB 1143 (1989).

¹³ 20 C.F.R. § 10.5(f); J.S., Docket No. 19-1035 (issued January 24, 2020).

¹⁴ T.W., Docket No. 19-1286 (issued January 13, 2020).

¹⁵ S.G., Docket No. 18-1076 (issued April 11, 2019); *Fereidoon Kharabi*, 52 ECAB 291 (2001).

claimed. To do so would essentially allow an employee to self-certify his or her disability and entitlement to compensation.¹⁶

ANALYSIS -- ISSUE 2

The Board finds that appellant has not met his burden of proof to establish disability from work for the period October 31 through December 16, 2019 causally related to his accepted February 20, 2018 employment injury.

As noted above, in reports dated February 20, 2018 through April 2, 2020, Drs. Khapchick, and Potter described appellant's February 2018 employment injury and noted diagnoses. However, neither of these physicians addressed appellant's claimed period of disability. The Board has held that medical evidence that does not offer an opinion regarding the cause of an employee's condition or disability is of no probative value on the issue of causal relationship. As such, these reports are insufficient to establish appellant's disability claim.¹⁷

In an April 2, 2020 note, Dr. Bucklin described appellant's history of injury and diagnosed right femoral acetabular impingement based on MRI scan. He recommended surgery and found that appellant was partially disabled from April 2 through June 30, 2020 and could return to full-duty work on July 1, 2020. Dr. Bucklin did not, however, address the period at issue, which is October 31 through December 16, 2019. Dr. Bucklin's report is, therefore, of no probative value as he did not offer an opinion on the claimed period of disability.¹⁸ Thus, his report is also insufficient to establish appellant's disability claim.

Although appellant contended that he was disabled from work during the claimed period and submitted documentation regarding various administrative procedures against the employing establishment, this issue is medical in nature and may only be resolved with the submission of probative medical evidence.¹⁹

The case record is devoid of any rationalized medical evidence establishing that appellant was disabled from work for the period October 31 through December 16, 2019 causally related to his accepted February 20, 2018 employment injury. As such, the Board finds that he has not met his burden of proof to establish his claim.

CONCLUSION

The Board finds that appellant has not met his burden of proof to establish that the acceptance of his claim should be expanded to include additional conditions as causally related to his accepted February 20, 2018 employment injury. The Board further finds that he has not met

¹⁶ See *J.P.*, Docket No. 22-0061 (issued January 13, 2023); *S.G., id.*; *William A. Archer*, 55 ECAB 674 (2004); *Fereidoon Kharabi, id.*

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

¹⁸ *Id.*

¹⁹ See *J.D.*, Docket No. 22-0935 (issued December 16, 2022); *Debra McDavid*, 57 ECAB 149 (2005).

his burden of proof to establish disability from work for the period October 31 through December 16, 2019 causally related to his accepted February 20, 2018 employment injury.

ORDER

IT IS HEREBY ORDERED THAT the February 8, 2021 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: March 6, 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