

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

C.G., Appellant)	
)	
and)	Docket No. 23-0777
)	Issued: October 5, 2023
DEPARTMENT OF VETERANS AFFAIRS,)	
WILLIAM'S. MIDDLETON MEMORIAL)	
VETERANS' HOSPITAL, Madison, WI,)	
Employer)	
)	

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

Case Submitted on the Record

ORDER REMANDING CASE

Before:
PATRICIA H. FITZGERALD, Deputy Chief Judge
VALERIE D. EVANS-HARRELL, Alternate Judge
JAMES D. MCGINLEY, Alternate Judge

On May 10, 2023 appellant filed a timely appeal from an April 3, 2023 merit decision and a May 3, 2023 nonmerit decision of the Office of Workers' Compensation Programs (OWCP). The Clerk of the Appellate Boards assigned Docket No. 23-0777.

On January 25, 2023 appellant, then a 51-year-old medical supply aid and technician, filed a traumatic injury claim (Form CA-1) alleging that on January 20, 2023 he sustained right hip pain after a fall while in the performance of duty.¹ He indicated that his right foot slipped out from under him after standing up and caused him to fall. On the reverse side of the claim form, appellant's supervisor acknowledged that appellant was injured in the performance of duty. The form indicated that appellant stopped work on January 20, 2023.

¹ Appellant previously filed a traumatic injury claim (Form CA-1) for an alleged February 5, 2020 traumatic injury. OWCP assigned the claim OWCP File No. xxxxxx961. It received medical evidence regarding appellant's lowback, knees, and right hip. By decision dated January 11, 2023, the Board affirmed OWCP decisions dated November 9, 2021 and February 15, 2022, which denied the claim as appellant had not established a medical condition causally related to the accepted February 5, 2020 employment incident. Docket No. 22-0536 (issued January 11, 2023).

On January 20, 2023 appellant was seen in an emergency department by Dr. Michael A. Mancera, a Board-certified emergency medicine physician. He related right hip pain after a fall at work three days prior. Dr. Mancera also noted that appellant had undergone right hip placement in October 2022.

On January 25, 2023 appellant was seen by Dr. Federico G. Leon, a Board-certified family medicine physician, for a follow-up to his emergency department visit. He indicated “significant” right hip discomfort radiating down to the right groin, the right gluteal area, and the back of his right leg. Appellant further indicated a worsening of “right lower back degenerative pain coming from the facets.” Dr. Leon administered injections to the right gluteus minimus muscle, piriformis muscle, and the right L3-L4 facet. He diagnosed right hip pain to the gluteus minimus and piriformis muscle, and chronic right L3-L4 facet pain secondary to degenerative facet disease.

On February 8, 2023 appellant was seen for another follow-up with Dr. Leon, who indicated that appellant was previously noted to have a gluteus minimus and piriformis syndrome and a secondary right inguinal ligament tightness with slight neuralgic paresthetic pain. He related that his pain returned. Dr. Leon administered additional lidocaine and Kenalog injections. He related appellant’s diagnoses as right gluteus minimus and medius sprain, and right piriformis syndrome.

In a development letter dated February 28, 2023, OWCP informed appellant that the diagnosis of right piriformis syndrome and right inguinal ligament tightness are conditions that date back to at least 2021 and that medical reports from his previously denied case showed him receiving treatment for those conditions. It noted that the medical reports received failed to address whether these preexisting nonwork-related injuries were aggravated, precipitated, or accelerated by the alleged January 20, 2023 employment incident. OWCP provided a questionnaire to appellant to substantiate the factual elements of his claim. Further, it requested appellant to provide a narrative report from a physician containing a detailed description of findings and a diagnosis, as well as a medical explanation of how the work incident caused or aggravated a medical condition. OWCP afforded appellant 30 days to respond. No response was received.

In a note dated February 1, 2022, Dr. John Wollaeger, a Board-certified orthopedic surgeon, related that appellant was originally seen in February 2020 for a work-related injury when an elevator dropped a couple of floors and came to a sudden stop. Appellant was seen in an emergency department at the time for left knee pain, and since then he has also been seen for left shoulder pain, neck pain, and right knee pain. He had recently undergone a right hip arthroscopy and felt that things were “going well.” Dr. Wollaeger opined that it was “difficult to say” whether appellant’s right hip condition directly came from the February 2020 work event, but felt it was a “possibility.”

In a note dated February 15, 2022, Dr. Brian E. Walczak, an osteopath Board-certified in orthopedic surgery, indicated that appellant was seen on November 1, 2021 for right hip pain. He reiterated appellant’s injury and treatment history. An x-ray report reviewed by Dr. Walczak showed no significant arthritis and a magnetic resonance imaging (MRI) scan reviewed by him showed evidence of a tear of the labral cartilage of the hip with adjacent cartilage thinning. Dr. Walczak further indicated that appellant underwent surgery to repair his hip on December 1,

2021, which showed evidence of significant inflammation inside the hip, full-thickness tearing of the labrum with delamination in the anterior superior portion of the labrum, and adjacent cartilage damage. He noted that this was repaired arthroscopically and appellant was currently rehabilitating his hip. Dr. Walczak opined that the February 2020 injury was “more likely than not” an inciting event for “causing” or at least “exacerbating” the pain inside appellant’s hip related to cartilage damage and tearing of the hip labrum.

By decision dated April 3, 2023, OWCP accepted that the January 20, 2023 employment incident occurred as alleged and that a medical condition was diagnosed in connection with the incident. However, it denied appellant’s claim, finding that the medical evidence of record was insufficient to establish causal relationship between his diagnosed condition and the accepted January 20, 2023 employment incident. OWCP further noted that the evidence from Dr. Walczak was the same evidence submitted in appellant’s previously denied traumatic injury claim under OWCP File No. xxxxxx961.

On April 29, 2023 appellant requested reconsideration.

By decision dated May 3, 2023, OWCP denied appellant’s request for reconsideration of the merits of his claim, pursuant to 5 U.S.C. § 8128(a).

The Board, having duly considered the matter, finds that this case is not in posture for decision.

OWCP’s procedures provide that cases should be administratively combined when correct adjudication of the issues depends on frequent cross-referencing between files.² For example, if a new injury case is reported for an employee who previously filed an injury claim for a similar condition or the same part of the body, doubling is required.³ Herein, appellant has a previously-denied traumatic injury claim for a right hip condition under OWCP File No. xxxxxx961. He subsequently filed a traumatic injury claim for a right hip condition, which was assigned OWCP File No. xxxxxx099, the claim presently before the Board. Thus, for a full and fair adjudication, this case must be remanded for OWCP to administratively combine the current case record with OWCP File No. xxxxxx961, so that it can consider all relevant claim files and accompanying evidence in adjudicating the present claim.⁴ Following this and other such further development as deemed necessary, OWCP shall issue a *de novo* decision. Accordingly,

² Federal (FECA) Procedure Manual, Part 2 -- Claims, *File Maintenance and Management*, Chapter 2.400.8c (February 2000).

³ *Id.*; *M.L.*, Docket No. 20-1176 (issued April 29, 2021); *L.M.*, Docket No. 19-1490 (issued January 29, 2020); *L.H.*, Docket No. 18-1777 (issued July 2, 2019).

⁴ *Supra* note 2 at Chapter 2.400.8c(1); *W.D.*, Docket No. 19-0961 (issued March 31, 2021); *L.P.*, Docket Nos. 18-1558, 18-1568 (issued June 21, 2019).

IT IS HEREBY ORDERED THAT the April 3 and May 3, 2023 decisions of the Office of Workers' Compensation Programs are set aside, and the case is remanded for further proceedings consistent with this order of the Board.

Issued: October 5, 2023
Washington, DC

Patricia H. Fitzgerald, Deputy 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