

tubs of mail and felt a sharp pain in his groin area.² He stated that he did not realize his condition was serious. Appellant further noted that on October 11, 2012 he was pushing a bulk mail container (BMC) full of mail and felt a sharp pain in his groin while in the performance of duty.

In support of his claim appellant provided evidence related to his prior claim for a hernia sustained on October 7, 2012. This included an October 11, 2012 report in which Dr. John Meier, a Board-certified internist, noted that appellant was seen for constipation and a hernia. In an October 19, 2012 operative report, Dr. Brandon Roy, a Board-certified surgeon, noted that he performed an open repair of a right inguinal hernia on that date.

In a February 1, 2013 report, a physician assistant noted that appellant presented with a chief complaint of constant pain in the abdomen beginning that day, after doing heavy lifting at work. It was noted that appellant had a hernia repair in October 2012. Additionally, the physician assistant noted that appellant indicated that he saw his surgeon on “Monday of this week and everything looked good.”

Dr. Roy, in a February 4, 2013 disability certificate, advised that appellant had a 15-pound weight restriction for six weeks starting that day. He noted that appellant had continued pain after his hernia repair. Dr. Roy noted that pain increased with activity and would likely resolve with continued rest and activity restrictions. In a February 25, 2013 report, he noted that appellant was seen in the office on February 4, 2013 and was status post right inguinal hernia repair from October 19, 2012. Dr. Roy explained that appellant was absent from work on February 1 through 3, 2013 due to right inguinal pain exacerbated by heavy lifting.

In a March 18, 2013 report, Dr. Roy noted that appellant returned for follow up of right groin pain status post right inguinal hernia repair with mesh in October 2012. He examined appellant and diagnosed continued right groin pain five months status post inguinal hernia repair with mesh. Dr. Roy opined that he was unable to discern a recurrence of his hernia on manual examination and would schedule appellant for an abdominal/pelvic computerized tomography (CT) scan for further assessment. He advised that appellant requested a work release for 30 days or until his CT examination.

In an April 8, 2013 report, Dr. Roy found no evidence of inguinal hernia and diagnosed abdominal pain in the right lower belly. Also submitted was an April 15, 2013 work excuse note, from a nurse placing appellant off work.

In an April 22, 2013 report, Dr. Roy noted that appellant was status post open right inguinal hernia repair on October 19, 2012. He indicated that he saw appellant on November 1, 2012 and he seemed to be doing well. Later in November, appellant expressed a desire to return to work although he still had some pain at his surgical site. On December 28, 2012 he had a near total resolution of right inguinal postoperative pain, and was cleared for work. Dr. Roy advised that appellant was seen on January 28, 2013 with complaints of right groin pain exacerbated by

² In a prior claim (OWCP File No. xxxxxx969), OWCP accepted that on October 7, 2012 appellant sustained a right inguinal hernia with obstruction, without gangrene, while in the performance of duty. The October 7, 2012 hernia claim is not before the Board in the present appeal.

physical activity at work. He noted that appellant was again seen on February 1, 2013 with acute exacerbation of pain, “[t]his occurred while at work on February 1, 2013.” Dr. Roy noted that appellant was again seen on March 19, 2013 with persistent right groin pain that was increased by work-related activities. He explained that a CT scan was done to evaluate for complication or recurrence and appellant was advised not to work due to the pain. Following the CT scan, Dr. Roy indicated that appellant was evaluated and his pain was better as it was not as frequent. He diagnosed a hernia and abdominal pain in the right lower belly. Dr. Roy opined, “I think his work-related activities exacerbated underlying pain from right inguinal mesh repair. His symptoms have clearly improved as he has been off work from March 23 to May 8, 2013.”

On May 16, 2013 Dr. Roy noted that appellant was status post open right inguinal hernia repair. He noted that appellant had postoperative pain that was aggravated by physical activity. Dr. Roy opined that his accepted work-related condition has worsened such that he was totally disabled from work. He noted that appellant had returned to work and had essentially “no right groin pain. Patient has known left inguinal hernia which is small. No real symptoms here.” Dr. Roy diagnosed a hernia and explained that appellant’s postoperative course was complicated by pain. He advised that appellant was on light duty prior to being taken out of work. However, this did not ameliorate his symptoms. Dr. Roy opined that his work-related symptom had worsened such that he was totally disabled.

Dr. Roy, in an October 4, 2013 report, explained that he had reviewed his office notes regarding appellant’s hernia repair and appellant’s complaints of pain in the area of the surgical repair. He explained that his office notes clearly documented the complaints of pain at the surgical site on the three separate occasions of March 19, April 8, and 22, 2013. Dr. Roy advised that he documented the findings of tenderness on examination at the repair site. He explained that his office notes clearly documented his opinion that appellant’s complaints and examination improved with rest. Dr. Roy opined that he was “uncertain what other documentation he could provide and he did not “know how to make the situation anymore clear or to better establish cause and effect.”

By letters dated March 27, 2014, OWCP informed appellant and the employing establishment of the type of evidence needed to support his claim and requested that such evidence be submitted within 30 days.

By decision dated May 2, 2014, OWCP denied appellant’s occupational disease claim. It found that the medical evidence did not demonstrate that the claimed medical condition was causally related to established work-related events.

On May 16, 2014 appellant’s counsel requested a telephonic hearing, which was held on December 2, 2014. During the hearing, appellant testified that, after his hernia repair for the prior claim, he had returned to light-duty work for a few weeks. He then returned to full-duty work, which was described as heavy and physically demanding. Appellant noted that, after he returned to full duty, he would get occasional pain in the groin area. He explained that he was seen on February 1, 2013, for increased pain and explained to his physicians that he was back to full duty where he did a lot of heavy lifting. Appellant indicated that he underwent a CT scan and was told to take time off work. He advised that he missed approximately six to eight weeks from work and was advised not to lift and to rest. Appellant took pain medication and returned

to regular duty. He noted that he had occasional symptoms and was still under medical care for his hernia. Counsel argued that the medical evidence of record substantiated the recurrence of the hernia, but the evidence was also sufficient to determine that the job duties that caused the recurrence should be regarded as a new claim. He contended that the testimony and the medical report of May 16, 2013, should be sufficient to establish a *prima facie* claim for the new claim as well as for the recurrence. The hearing representative explained that the medical evidence contained a diagnosis of pain, but pain was not a secure diagnosis. She allowed appellant 30 days to submit additional medical evidence.

By decision dated February 23, 2015, an OWCP hearing representative affirmed the May 2, 2014 decision.

LEGAL PRECEDENT

An employee seeking benefits under FECA has the burden of establishing the essential elements of his or her claim including the fact that the individual is an “employee of the United States” within the meaning FECA, that the claim was timely filed within the applicable time limitation period of FECA, that an injury was sustained in the performance of duty as alleged, and that any disability and/or specific condition for which compensation is claimed are causally related to the employment injury.³ 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.⁴

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the employment factors identified by the claimant were the proximate cause of the condition for which compensation is claimed or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant. The medical evidence required to establish causal relationship, generally, is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence which includes a physician’s rationalized opinion on the issue of whether there is a causal relationship between the claimant’s diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the claimant, 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 identified by the claimant.⁵

³ *Joe D. Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

⁴ *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁵ *Id.*

ANALYSIS

Appellant filed the current claim for an occupational disease (Form CA-2) on March 18, 2014 and alleged that he sustained an occupational disease while performing repetitive activities at work such as lifting and pulling. There is no dispute that he performed such duties. However, appellant has submitted insufficient medical evidence to establish that his duties caused a new injury or aggravation of his right inguinal hernia condition.

Appellant submitted reports from Dr. Roy. Some of Dr. Roy's reports refer to the accepted hernia and repair in the prior claim and predate the symptoms that gave rise to the current claim which is not before the Board. His subsequent reports do not sufficiently explain how work activities caused a new condition or aggravation of a prior condition after appellant was released to work in December 2013. Dr. Roy also does not provide a diagnosis of a specific condition in which he attributes the condition to particular work activities. For example, in a February 4, 2013 disability certificate, he noted that appellant had continued pain following a hernia repair.

In a February 25, 2013 report, Dr. Roy explained that appellant was absent from work on February 1 through 3, 2013 due to right inguinal pain exacerbated by heavy lifting. However, he did not provide any further details or explain the context of the heavy lifting and how it exacerbated appellant's condition.

Furthermore, Dr. Roy provided a March 18, 2013 report in which he noted that appellant returned for follow up of right groin pain. He diagnosed continued right groin pain five months status post inguinal hernia repair with mesh and explained that he was unable to discern a recurrence of appellant's hernia on manual examination. Likewise, in an April 8, 2013 report, Dr. Roy found no evidence of inguinal hernia and diagnosed abdominal pain in the right lower belly. The Board notes that these reports do not sufficiently support a new injury or an aggravation of the prior hernia condition.

The Board also notes that Dr. Roy provided a diagnosis of pain. While there must be a proven basis for the pain, pain due to an employment-related condition can be the basis for the payment of compensation.⁶ However, Dr. Roy did not diagnose a specific employment-related condition, and found no evidence of a hernia. Without a specific diagnosis of an employment-related condition, these reports are of limited probative value.

In his April 22, 2013 report, Dr. Roy explained that on December 28, 2012 appellant had a near total resolution of right inguinal postoperative pain, and was cleared for work. He then saw appellant on January 28, 2013 with complaints of right groin pain exacerbated by physical activity at work; on February 1, 2013 for an acute exacerbation of pain, and opined that "[t]his occurred while at work on February 1, 2013." Dr. Roy also saw appellant on March 19, 2013 with persistent right groin pain that was increased by work-related activities. He diagnosed a hernia and abdominal pain in the right lower belly. Dr. Roy opined that "I think his work-related activities exacerbated underlying pain from right inguinal mesh repair." He did not explain how the work duties caused a new injury or aggravation of appellant's prior hernia condition.

⁶ *Barry C. Peterson*, 52 ECAB 120 (2000).

In his May 16, 2013 report, Dr. Roy noted that appellant was status post open right inguinal hernia repair. He noted that appellant had postoperative pain that was aggravated by physical activity. Dr. Roy opined that it was his opinion that his accepted work-related condition had worsened such that he was totally disabled from work. He noted that appellant had returned to work and had essentially “no right groin pain.” Dr. Roy diagnosed a hernia and explained that appellant’s postoperative course was complicated by pain. He advised that appellant was on light duty prior to being taken off work. However, this did not ameliorate appellant’s symptoms. Dr. Roy opined that appellant’s work-related symptoms had worsened such that he was totally disabled from work. The Board notes that this report does not offer an opinion regarding a new injury in the present claim, nor does it sufficiently explain how work factors aggravated the hernia condition following appellant’s return to work. On October 4, 2013 Dr. Roy explained that he had reviewed his office notes which he claimed clearly documented appellant’s complaints of pain at the surgical site on three separate occasions March 19, April 8 and 22, 2013, and that appellant’s condition improved with rest. He opined that he was “uncertain what other documentation he could provide and he did not “know how to make the situation anymore clear or to better establish cause and effect.”

The Board finds that the reports from Dr. Roy are insufficient to establish the present claim as Dr. Roy did not sufficiently address how appellant’s work duties contributed to a diagnosed medical condition. They referred to appellant’s prior hernia condition and repair, but did not provide a reasoned explanation regarding how particular work factors aggravated this condition or caused a new condition. Thus these reports are insufficient to support a new occupational disease claim.

OWCP also received a nurse’s note and a physician assistant’s report. However, reports by nurse practitioners and physician assistants are not considered medical evidence as these individuals are not considered physicians under FECA.⁷ Thus, this evidence is insufficient to establish the claim.

The Board has further held that the mere fact that a condition manifests itself during a period of employment does not raise an inference that there is a causal relationship between the two.⁸ Neither the fact that the condition became apparent during a period of employment nor the belief that the condition was caused or aggravated by employment factors or incidents is sufficient to establish causal relationship.⁹ Causal relationship must be substantiated by reasoned medical opinion evidence, which is appellant’s responsibility to submit.

As there is no reasoned medical evidence of record explaining how appellant’s employment duties caused or aggravated a medical condition, appellant has not met his burden of proof in establishing that he sustained a medical condition causally related to factors of his employment.

⁷ *Sean O’Connell*, 56 ECAB 195 (2004). *See* 5 U.S.C. § 8101(2).

⁸ *See Joe T. Williams*, 44 ECAB 518, 521 (1993).

⁹ *Id.*

On appeal, appellant's counsel asserts that OWCP's decision leaves appellant in "limbo." As explained, the medical evidence of record is insufficient to establish that appellant's work duties and preexisting hernia condition caused a new diagnosed medical condition.

Appellant may submit evidence or argument with a written request for reconsideration 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 in establishing that he sustained an injury causally related to factors of his federal employment.

ORDER

IT IS HEREBY ORDERED THAT the February 23, 2015 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: January 13, 2016
Washington, DC

Christopher J. Godfrey, Chief Judge
Employees' Compensation Appeals Board

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

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board