



In the initial treatment note, Dr. Richard Robinson, a physician Board-certified in obstetrics and gynecology, provided appellant's history of injury as falling off of a power jack into a ramp hitting her right hip very hard and causing a laceration of the right leg. His findings on physical examination including full range of motion of the cervical spine, upper extremities and shoulders, as well as good range of motion of the back and hips without any significant pain. Dr. Robinson diagnosed laceration of the right leg, contusion and hematoma of the right hip area and abrasions of the right thigh.

Appellant's right hip hematoma did not dissipate and she requested authorization for surgery beginning on May 20, 1999.<sup>2</sup> On January 12, 2000 Dr. Ishtiaq Khan, a Board-certified orthopedic surgeon, performed a surgical exploration of the right thigh with a excision and evacuation of the old hematoma and a large bursa. On January 27, 2000 he stated that appellant was doing okay after surgery and released her to return to work. Appellant returned to light-duty work on February 5, 2000. In a note dated February 17, 2000, Dr. Khan reported that appellant's thigh showed persistent swelling and concluded that he could not rule out reaccumulation of the hematoma. On March 4, 2000 he stated that appellant had persistent fluid collection and questioned whether a surgical excision was necessary. Appellant requested permission for additional surgery from the Office in May 2000.

In a letter dated March 5, 2000, appellant complained of numbness in her right leg and foot as well as problems with her right hip. In a note dated March 7, 2000, Dr. Khan stated that appellant had swelling in her hip area with an 8 to 10 centimeter fluctuant mass. He recommended that appellant consider surgery.

She filed a claim for a schedule award on April 5, 2000. By decision dated March 22, 2001, the Office denied appellant's request for a schedule award on the basis that the medical evidence did not establish that she had reached maximum medical improvement. Appellant requested an oral hearing on August 3, 2001 which the Branch of Hearings and Review denied as untimely by decision dated August 30, 2001.

Dr. Michael V. Yancey, a Board-certified neurosurgeon, completed a report on June 9, 2000 noting appellant's symptoms of right posterior thigh numbness and intermittent pain in the right side of her back. Dr. Yancey suggested that the numbness and pain in her right leg could be related to either peripheral nerve or spine injury and that the low back pain could be indicative of a spine injury. He recommended further electrodiagnostic testing.

Appellant filed a notice of recurrence of disability on June 6, 2001 alleging that since returning to light-duty work, she was fatigued with pain. Appellant did not stop work, but stated: "My lower back hurts, my whole entire leg has ... numbness all the way down to my right toes." She also alleged that she had nerve damage in the upper right thigh with no feeling and a pinched nerve in her back due to the May 20, 1999 employment injury. Appellant stated that she experienced major lower back and hip pain with numbness in the entire leg and right foot as well as hip joint pain resulting in a limp. She also noted that her right hip hematoma had not dissipated following the May 20, 1999 injury.

---

<sup>2</sup> The Office later stated that it had authorized appellant's initial surgery.

Appellant's attending physician, Dr. Patricia D. Glenn, an internist, completed a form report on June 13, 2000 and provided appellant's work restrictions. She stated that appellant had a hematoma or soft mass of the posterior thigh associated with mild tenderness with pain and mild tenderness over the hip joint. Dr. Glenn stated that appellant had a recurrence of the previously evacuated hematoma as well as complaints of persistent numbness down the right leg and pain, of unknown etiology.

By decision dated May 30, 2002, the Office denied appellant's claim for recurrence of disability finding that the current conditions to which she attributed her disability were not causally related to her accepted employment injury.

Appellant requested an oral hearing on June 14, 2002. She requested a subpoena for a witness on June 16, 2003. In a letter dated August 15, 2003, the hearing representative informally denied appellant's request for a subpoena and stated that a formal denial of the request for subpoena would be included in the final decision.<sup>3</sup>

Appellant testified at her oral hearing on November 13, 2003 and submitted additional medical evidence. In a report dated March 24, 2000, Dr. Vincent E. Boswell, a Board-certified orthopedic surgeon, noted appellant's history of injury and examined the mass over appellant's right thigh for which she received surgery on January 12, 2000. He diagnosed a fascial defect over the right thigh, numbness in the leg and pes bursitis of the knees.

Dr. Glenn completed a form report on June 9, 2000 and stated that appellant should remain on light duty. She noted that appellant continued to experience pain and numbness in the right leg. Dr. Glenn also completed a form report indicating that appellant was partially disabled from July 29 to August 1, 2001. She diagnosed recurrent hematoma of the right leg and lower back pain and carpal tunnel syndrome. Dr. Glenn also indicated that appellant had lower back pain and pain with numbness in her right leg which appellant attributed to her employment injury.

By decision dated March 4, 2004, the hearing representative affirmed the Office's May 30, 2002 decision finding that appellant had not established a causal relationship between her current conditions and her accepted employment injury.

### **LEGAL PRECEDENT**

Appellant has the burden of establishing by the weight of the substantial, reliable, and probative evidence, a causal relationship between her recurrence of disability commencing June 6, 2001 and her May 20, 1999 employment injury.<sup>4</sup> This burden includes the necessity of furnishing medical evidence from a physician who, on the basis of a complete and accurate

---

<sup>3</sup> The Board notes that the hearing representative's March 4, 2004 decision did not address the issue of appellant's request for a subpoena. As the Office did not address this issue in a final decision, the Board may not address this issue on appeal. 20 C.F.R. § 501.2(c).

<sup>4</sup> *Dominic M. DeScala*, 37 ECAB 369, 372 (1986); *Bobby Melton*, 33 ECAB 1305, 1308-09 (1982).

factual and medical history, concludes that the disabling condition is causally related to employment factors and supports that conclusion with sound medical reasoning.<sup>5</sup>

When a claimant asserts that additional conditions, conditions not accepted or approved by the Office, are related to the accepted employment injury, the claimant bears the burden of proof to establish that these conditions are causally related to the accepted employment injury.<sup>6</sup>

### ANALYSIS

In this case, the Office accepted that appellant sustained a laceration of her right leg and a contusion of her right hip as a result of her May 20, 1999 employment injury. The Office also authorized surgical exploration of appellant's right thigh to reduce the hematoma which resulted from her injury. In her claim for recurrence of disability, appellant alleged that she sustained additional conditions as a result of the May 20, 1999 employment injury which were not accepted by the Office. Appellant alleged that she had pain and numbness in her right leg as well as back pain which resulted from this injury.

On May 20, 1999 Dr. Robinson, a physician Board-certified in obstetrics and gynecology, provided appellant's history of injury as falling off of a power jack into a ramp hitting her right hip very hard and causing a laceration of the right leg. His findings on physical examination including full range of motion of the cervical spine, upper extremities and shoulders as well as good range of motion of the back and hips without any significant pain. This report does not support that the initial employment incident resulted in an injury to appellant's back. Dr. Robinson found good range of motion with no significant pain, negating that the May 20, 1999 employment injury caused any back condition.

Dr. Yancey, a Board-certified neurosurgeon, completed a report on June 9, 2000 noting appellant's symptoms of right posterior thigh numbness and intermittent pain in the right side of her back. He suggested that the numbness and pain in her right leg could be related to either peripheral nerve or spine injury and that the low back pain could be indicative of a spine injury. He recommended further electrodiagnostic testing. This report is not sufficient to meet appellant's burden of proof as Dr. Yancey did not provide a definite opinion on the cause of appellant's back and leg pain and did not offer any opinion that these conditions were due to appellant's accepted employment injury on May 20, 1999.

Dr. Glenn, an internist, completed a form report on June 13, 2000 noting appellant's complaints of persistent numbness down the right leg and pain, of unknown etiology. This report cannot meet appellant's burden of proof as Dr. Glenn did not attribute appellant's leg pain and numbness to her accepted May 20, 1999 employment injury instead indicating that she did not know the cause of appellant's current symptoms.

In a separate form report, Dr. Glenn diagnosed recurrent hematoma of the right leg and lower back pain and carpal tunnel syndrome. Dr. Glenn also indicated that appellant had lower

---

<sup>5</sup> See *Nicolea Brusco*, 33 ECAB 1138, 1140 (1982).

<sup>6</sup> *Jacquelyn L. Oliver*, 48 ECAB 232, 235 (1996).

back pain and pain with numbness in her right leg which appellant attributed to her employment injury. Neither the fact that a condition became apparent during a period of employment nor the belief of a claimant that a condition was caused or aggravated by the employment is sufficient to establish causal relationship.<sup>7</sup> As Dr. Glenn did not support causal relationship, but instead merely repeated that appellant believed that her back pain and right leg numbness were due to her May 20, 1999 employment injury, this report is not sufficient to meet appellant's burden of proof.

In a report dated March 24, 2000, Dr. Boswell, a Board-certified orthopedic surgeon, noted appellant's history of injury and examined the mass over appellant's right thigh for which she received surgery on January 12, 2000. He diagnosed a fascial defect over the right thigh, numbness in the leg and pes bursitis of the knees. Dr. Boswell did not provide any opinion on the causal relationship between appellant's leg numbness and knee condition and her accepted employment injury. Without an opinion on causal relationship, this report is not sufficient to meet appellant's burden of proof.

However, the Board notes that there is sufficient medical evidence in the record to establish that appellant's current right thigh hematoma is related to her accepted employment injury. Appellant underwent Office approved surgery to reduce her right thigh hematoma on January 12, 2000. On March 4, 2000 Dr. Khan, a Board-certified orthopedic surgeon, stated that appellant had persistent fluid collection and questioned whether a surgical excision was necessary. Appellant requested permission for additional surgery from the Office in May 2000. In a note dated March 7, 2000, Dr. Khan stated that appellant had swelling in her hip area with an 8 to 10 centimeter fluctuant mass. He recommended that appellant consider surgery. Dr. Glenn also stated that appellant had a recurrence of the previously evacuated hematoma.<sup>8</sup>

The record establishes that the Office authorized surgical repair of appellant's hematoma on January 12, 2000. Dr. Khan, who performed the surgery, noted that appellant had persistent fluid collection after the January 12, 2000 surgery and recommended additional surgery. Dr. Glenn also opined that appellant hematoma after January 12, 2002 was due to her employment injury. Proceedings under the Federal Employees' Compensation Act<sup>9</sup> are not adversary in nature, nor is the Office a disinterested arbiter. While the claimant has the burden to establish entitlement to compensation, the Office shares responsibility in the development of evidence to see that justice is done.<sup>10</sup> Based on the weight of the continuing medical evidence of a lingering right hip hematoma, on remand, the Office should further develop the medical

---

<sup>7</sup> *Donald E. Ewals*, 51 ECAB 428, 434 (2000).

<sup>8</sup> There is no medical evidence supporting that appellant currently has any disability for work due to this condition.

<sup>9</sup> 5 U.S.C. §§ 8101-8193.

<sup>10</sup> *Claudia A. Dixon*, 47 ECAB 168, 170 (1995).

evidence by referring appellant and a statement of accepted facts to an appropriate physician to determine if additional surgical treatment is appropriate.<sup>11</sup>

**CONCLUSION**

The Board finds that appellant has not met her burden of proof in establishing that the additional conditions of low back pain and numbness in the right leg are causally related to her May 20, 1999 employment injury as alleged in her June 6, 2001 claim for recurrence of disability. However, the Board further finds that appellant has established that her current right thigh hematoma resulted from the May 20, 1999 employment injury and that on remand, the Office should further develop the medical evidence to determine if additional treatment is appropriate under section 8103 of the Act.

**ORDER**

**IT IS HEREBY ORDERED THAT** the March 4, 2004 decision is affirmed in part and remanded in part for additional development consistent with this decision of the Board.

Issued: September 21, 2004 September 21, 2004  
Washington, DC

Alec J. Koromilas  
Chairman

Willie T.C. Thomas  
Alternate Member

A. Peter Kanjorski  
Alternate Member

---

<sup>11</sup> Section 8103 of the Act provides that the Office shall provide a claimant with the service, appliances and supplies prescribed or recommended by a qualified physician which are likely to cure, give relief, reduce the degree or period of disability, or aid in lessening the amount of monthly compensation. 5 U.S.C. § 8103.