United States Department of Labor
Employees' Compensation Appeals Board

J.G., Appellant	)	
and	)	**Docket No. 14-266**
	)	**Issued: September 29, 2014**
U.S. POSTAL SERVICE, POST OFFICE, Hartford, CT, Employer	)	

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

Case Submitted on the Record

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Alternate Judge
MICHAEL E. GROOM, Alternate Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On November 18, 2013 appellant filed a timely appeal from the November 5, 2013 merit decision of the Office of Workers' Compensation Programs' (OWCP), which denied his claim. Pursuant to the Federal Employees' Compensation Act[1] (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

ISSUE

The issue is whether appellant met his burden of proof to establish that he sustained an injury causally related to factors of his federal employment.

FACTUAL HISTORY

On May 15, 2013 appellant, then a 58-year-old letter carrier, filed an occupational disease claim alleging that he felt pain in his left knee as he walked his route. The pain worsened on each set of steps that he climbed. Appellant thought the pain would go away, but it continued

[1] 5 U.S.C. § 8101 *et seq.*

and he was forced to take two weeks of sick leave and consulted a physician, who diagnosed a stress fracture of the left knee. He stated that his injury began on September 25, 2012 and that he first became aware of the injury and its relation to his work on that date. Appellant stopped work on December 28, 2012 and returned on April 1, 2013. The employing establishment noted that he was on light duty, which involved standing two to three hours, walking one hour, driving and performing nonwalking duties when available.

In a May 5, 2013 statement, appellant noted that he started to feel pain in his left knee as he walked his route as a letter carrier. The pain worsened with climbing steps. Appellant took two weeks of sick leave to let it settle down. He saw an orthopedic surgeon who placed him on light duty. Appellant underwent a magnetic resonance imaging (MRI) scan that revealed a fracture of the left knee. He was placed on light duty, then no duty for 12 weeks and returned to light-duty work on April 1, 2013 but the pain continued. Appellant stated that steps and dismounting in and out of vehicles contributed to his pain. He also felt it when bending his knee.

OWCP received treatment reports dated October 22, 2012 to April 25, 2013 from Dr. Louis J. Mariorenzi, a Board-certified orthopedic surgeon, who treated appellant for complaint of pain and discomfort along the medial aspect of his left leg. Dr. Mariorenzi reported that another physician previously provided injections but the pain continued. He advised that, upon returning to work on October 15, 2012, appellant related that excessive walking caused pain in his knee, with problems ascending or descending stairs. Findings included minimal effusion with the knee joint and some medial joint line tenderness. Dr. Mariorenzi diagnosed nonspecific synovitis of the left knee with probable meniscal injury. On November 8, 2012 he stated that appellant was five months post right total hip replacement and listed possible medial meniscus tear of the left knee and possible sprain of the medial cruciate ligament of the left knee. Dr. Mariorenzi subsequently diagnosed stress fracture medial femoral condyle left knee (new problem) and right total hip replacement. He prescribed a cane and recommended a desk job or staying off work if walking was required. Appellant was placed off work on January 3, 2013. On March 28, 2013 Dr. Mariorenzi diagnosed possible stress fracture of the left medial femoral condyle and possible left knee osteonecrosis medial femoral condyle. Appellant was cleared for limited work on April 1, 2013 with limited standing and walking. On April 11, 2013 Dr. Mariorenzi repeated his diagnoses and advised that appellant was working as a mail carrier. Appellant walked about one hour a day and drove a truck the rest of the day. He reported pain in the left knee when loading the mail truck but otherwise was minimally symptomatic. Dr. Mariorenzi stated that appellant could resume his activities but should try to avoid standing and walking more than three hours a day. On April 25, 2013 he repeated his diagnoses and noted that appellant returned earlier than planned because of left knee pain and swelling. Dr. Mariorenzi prescribed medication and scheduled further testing.

By letter dated June 18, 2013, OWCP advised appellant that additional factual and medical evidence was needed to support his claim.

OWCP received an October 11, 2012 report from Dr. Dennis Botelho, a Board-certified internist, who advised that appellant was having left knee pain for the past four days while resting and walking. Dr. Botelho noted that appellant denied any trauma. Appellant recently had

a right hip replacement and noted that he "overused his [left] knee avoiding pressure to his [right] hip." Dr. Botelho diagnosed bursitis and limb pain left knee.[2]

In a letter dated June 27, 2013, appellant indicated that he had provided the requested medical evidence. He also noted that Dr. Mariorenzi did not take workers' compensation claims and was not sure how to proceed with his claim.

By decision dated August 12, 2013, OWCP denied appellant's claim. It found that the medical evidence did not establish that his left knee condition was causally related to the established work-related activities.

In a letter dated September 11, 2013, appellant requested reconsideration. He stated that his injury had progressed and that Dr. Botelho would explain his history.

In a September 6, 2013 report, Dr. Botelho noted that he was providing clarification with regard to appellant's condition. He had treated appellant for over 18 years. During that time, Dr. Botelho noted that appellant worked as a mail carrier and had arthritis of the right hip and, despite his discomfort, he walked continuously. He opined that "[i]t is my opinion that daily walking with [appellant's] gait abnormality led to the development of the left knee pain. It is my opinion that both [appellant's] osteoarthritis and left knee pain are causally related to his work and work requirement of walking and stair climbing." Dr. Botelho added that "[appellant's] present work situation has led to his physical problems and current disabilities. In this case, there is no specific date of injury, rather an accumulation of many years of repetitive trauma, related to the type of work that he performs. Chronic long distance walking in addition to an underlying bone condition has resulted in [appellant's] left knee pain and current problems." He stated that it was clear that daily walking and stair climbing would further aggravate the left knee. Dr. Botelho advised that appellant avoid his current activities, which caused inflammation and aggravated his physical condition.

By decision dated November 5, 2013, OWCP denied modification of the August 12, 2013 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 of 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]

[2] Although Dr. Botelho indicated right knee, this appears to be a typographical error.

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

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

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]

ANALYSIS

The evidence establishes that appellant has a left knee condition and his work involved activities such as walking and climbing steps while delivering mail on his route. The Board finds that he submitted insufficient medical evidence to establish that his left knee condition was caused or aggravated by the activities of his federal employment.

In an October 11, 2012 report, Dr. Botelho advised that appellant had left knee pain for the past four days. He explained that appellant recently underwent a right hip replacement and overused his left knee to avoid pressure to his right hip. Dr. Botelho diagnosed bursitis and left knee pain. The Board notes that this report is of limited probative value as he did not adequately address how specific employment factors contributed to the diagnosed condition.[6] In a September 6, 2013 report, Dr. Botelho advised that he had treated appellant for over 18 years and noted that he worked as a mail carrier and had right hip arthritis. He stated generally that appellant walked continuously. Dr. Botelho stated that "[i]t is my opinion that daily walking with [appellant's] gait abnormality led to the development of the left knee pain. It is my opinion that both [appellant's] osteoarthritis and left knee pain are causally related to his work and work requirement of walking and stair climbing." He stated his conclusion that appellant's work led to his physical problems and current disabilities, attributing it to an accumulation of many years of repetitive trauma, related to the work he performed. "Chronic long distance walking in addition to an underlying bone condition has resulted in [appellant's] left knee pain and current problems." The Board notes that this opinion is insufficient to establish causal relation. The opinion of a physician supporting causal relationship must be one of reasonable medical certainty that the condition for which compensation is claimed is causally related to federal employment and such relationship must be supported with affirmative evidence, explained by

[5] *Id.*

[6] *S.E.*, Docket No. 08-2214 (issued May 6, 2009) (medical evidence that does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship).

medical rationale and be based upon a complete and accurate medical and factual background of the claimant.[7] Dr. Botelho did not address the medical reasons why walking or other work factors caused or aggravated the diagnosed knee condition. Thus, his reports are of limited probative value.

Appellant also submitted reports from Dr. Mariorenzi. In his October 23, 2012 report, Dr. Mariorenzi noted that appellant advised him that, upon returning to work on October 15, 2012, excessive walking caused pain in the knee with appellant particularly having problems with "ascending/descending stairs." He diagnosed nonspecific synovitis of the left knee with probable meniscal injury. In his November 8, 2012 report, Dr. Mariorenzi indicated that appellant was five months post right total hip replacement, possible tear medial meniscus of the left knee and possible sprain of the left knee. In an April 11, 2013 report, he repeated his diagnoses and indicated that appellant was back at work as a mail carrier. Dr. Mariorenzi noted that appellant was walking about one hour a day and driving a truck the rest of the day. Appellant reported pain in the left knee when loading the mail truck but otherwise was minimally symptomatic. Dr. Mariorenzi stated that appellant could resume his activities but should try to avoid standing and walking more than three hours a day. Other reports from him also noted appellant's status and diagnoses. However, these reports are insufficient to establish appellant's claim as Dr. Mariorenzi did not specifically address whether and how appellant's work duties contributed to a diagnosed medical condition.[8] Although Dr. Mariorenzi stated that appellant reported left knee pain when loading a mail truck, the physician did not provide his own opinion explaining how this activity caused or contributed to a diagnosed medical condition.

The Board has 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.[9] 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.[10] Causal relationship must be substantiated by reasoned medical opinion evidence, which is appellant's responsibility to submit.

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

On appeal, appellant argues that his physician, Dr. Botelho, provided a rationalized opinion. As noted, the reports are insufficiently rationalized to establish his claim. 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.

[7] *Thomas A. Faber*, 50 ECAB 566 (1999); *Samuel Senkow*, 50 ECAB 370 (1999).

[8] *See supra* note 6.

[9] *See Joe T. Williams*, 44 ECAB 518, 521 (1993).

[10] *Id.*

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 November 5, 2013 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: September 29, 2014
Washington, DC

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

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board

James A. Haynes, Alternate Judge
Employees' Compensation Appeals Board