

ISSUE

The issue is whether appellant met his burden of proof to establish a left hip condition in the performance of duty.

FACTUAL HISTORY

On June 9, 2015 appellant, then a 63-year-old maintenance mechanic, filed an occupational disease claim (Form CA-2) alleging that he sustained degeneration of the hip due to factors of his federal employment. He related that his job duties included working and walking on a concrete floor, stooping, and bending. Appellant's supervisor advised that because of his hip he could not work his regular duties. He stopped work on April 21, 2015.

Dr. Verne H. Webster, an internist, completed a Family and Medical Leave Act form on March 13, 2015. He found that appellant was unable to perform the bending and stopping requirements of his position due to severe degeneration of the left hip.

On April 29, 2015 Dr. H. Cobb Alexander, a Board-certified orthopedic surgeon, advised that appellant had hip replacement surgery scheduled for May 7, 2015 and should be off work from April 15 through July 5, 2015.

In an undated statement accompanying his claim, appellant related that he began experiencing left hip pain as a result of the physically demanding and repetitive nature of his employment. He indicated that he had to crawl under machines to replace equipment. Appellant further related that he cleaned machines daily. He experienced increased left hip pain during the course of his employment.

The employing establishment controverted appellant's claim on June 10, 2015, asserting that the medical evidence was insufficient to show causal relationship.

By letter dated June 15, 2015, OWCP requested additional factual and medical information from appellant, including a detailed description of the job duties he believed caused his condition, the time each day he performed the identified activities, and a medical report addressing the relationship between any diagnosed condition and the identified work factors.

In an e-mail dated June 23, 2015, appellant's supervisor related that appellant had "knee surgery that he kept putting off which may have contributed to the hip problem." The supervisor asserted that appellant was a hard worker and that his "pain and limp did appear to be at least aggravated by his present job. Prior to maintenance he was on a fork lift most of the time."

By decision dated August 5, 2015, OWCP denied appellant's claim as he had not submitted sufficient factual evidence to establish the occurrence of the identified work factors. It noted that he had not responded to its request for additional information. OWCP further found that appellant did not submit medical evidence diagnosing any condition due to the alleged employment factors.

In a report dated March 13, 2015, received by OWCP on April 18, 2016, Dr. Webster discussed appellant's complaints of left hip pain beginning March 2014 and increasing over the

last month. He noted that appellant had “been walking on concrete for years” working for the employing establishment. Dr. Webster diagnosed hip pain and referred appellant to an orthopedic surgeon.³

On April 7, 2015 Dr. Alexander evaluated appellant for left hip pain with no “specific injury or fall.” He noted that he had previously undergone a left total knee replacement. Dr. Alexander found that x-rays showed advanced left degenerative joint disease with a deformity of the femoral head. He diagnosed left hip advanced osteoarthritis, pain in the pelvis/thigh joint, and local primary osteoarthrosis of the pelvis. Dr. Alexander, in a report dated April 20, 2015, noted that appellant worked for the employing establishment and was scheduled for a training course. He discussed his complaints of severe left hip and groin pain. Dr. Alexander recommended a total left hip replacement.

On May 7, 2015 Dr. Alexander performed a left total hip arthroplasty. He provided reports on May 19 and July 10, 2015 describing appellant’s progress following his total hip replacement. Dr. Alexander also completed disability certificates dated April through May 2015 finding that appellant was unable to work.

Appellant, through counsel, requested reconsideration on April 13, 2016.

By letter dated April 27, 2016, OWCP acknowledged appellant’s reconsideration request and again asked that he provide additional factual and medical information. It requested that he provide a description of the activities he believed caused his condition, including how long he stood, walked, and stooped each day. OWCP also again requested a reasoned medical report addressing causation.

By decision dated June 20, 2016, OWCP denied modification of its August 5, 2015 decision. It noted that appellant had not specifically described the work factors to which he attributed his condition.

LEGAL PRECEDENT

An employee seeking benefits under FECA⁴ 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 filed within the applicable time limitation, that an injury was sustained while 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.⁵ These are the essential elements of each and every compensation claim regardless of whether the claim is predicated on a traumatic injury or an occupational disease.⁶

³ Dr. Webster signed the report on May 13, 2015.

⁴ 5 U.S.C. § 8101 *et seq.*

⁵ *Tracey P. Spillane*, 54 ECAB 608 (2003); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁶ *See Ellen L. Noble*, 55 ECAB 530 (2004).

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;⁷ (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition;⁸ and (3) medical evidence establishing 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.⁹

Appellant's burden of proof includes the submission of a detailed description of the employment factors or conditions which he believes caused or adversely affected a condition for which compensation is claimed.¹⁰

ANALYSIS

Appellant alleged that he sustained left hip degeneration as a result of his job duties. He asserted that he walked and worked a concrete floor, stooped, and bent while performing his employment duties. Appellant attributed his hip pain to repetitive and physically strenuous work, noting that he replaced equipment under machines and cleaned machines daily.

In letters dated June 15, 2015 and April 27, 2016, OWCP requested that appellant identify in detail the work duties to which he attributed his condition, including how long he performed the duties each day. Appellant did not, however, respond to OWCP's requests for additional factual information. As noted, he has the burden to submit a detailed description of the employment factors or conditions that he believes caused or adversely affect the condition or conditions for which he claims compensation.¹¹ The Board finds that he failed to adequately respond to OWCP's request that he describe in greater detail the work factors alleged to have caused or contributed to the degeneration of his left hip or specify the amount of time he performed the identified duties daily.

Consequently, the Board finds that appellant has failed to sufficiently identify employment activities alleged to have caused or contributed to his claimed conditions to meet his burden of proof.¹² As appellant has not established an employment factor or exposure alleged to have caused an injury, it is unnecessary to consider the medical evidence with respect to causal relationship.¹³

⁷ *Michael R. Shaffer*, 55 ECAB 386 (2004).

⁸ *Marlon Vera*, 54 ECAB 834 (2003); *Roger Williams*, 52 ECAB 468 (2001).

⁹ *Beverly A. Spencer*, 55 ECAB 501 (2004).

¹⁰ *Lori A. Facey*, 55 ECAB 217 (2004); *P.G.*, Docket No. 15-1345 (issued August 23, 2016).

¹¹ *See id.*; *see also J.D.*, Docket No. 12-0073 (issued May 10, 2012); *Penelope C. Owens*, 54 ECAB 684 (2003).

¹² *R.Z.*, Docket No. 13-1911 (issued September 15, 2014).

¹³ *See id.*; *Bonnie A. Contreras*, 57 ECAB 364 (2006).

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 and 20 C.F.R. §§ 10.605 through 10.607.

CONCLUSION

The Board finds that appellant has not met his burden of proof to establish a left hip condition in the performance of duty.

ORDER

IT IS HEREBY ORDERED THAT the June 20, 2016 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: January 18, 2017
Washington, DC

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

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

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board