

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

G.M., Appellant)	
)	
and)	Docket No. 24-0388
)	Issued: May 28, 2024
U.S. POSTAL SERVICE, PORTSMOUTH MAIN)	
POST OFFICE, Portsmouth, VA, Employer)	
)	

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

Case Submitted on the Record

DECISION AND ORDER

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

JURISDICTION

On February 27, 2024 appellant filed a timely appeal from a February 14, 2024 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act¹ (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.²

¹ 5 U.S.C. § 8101 *et seq.*

² The Board notes that appellant submitted additional evidence on appeal. However, the Board's *Rules of Procedure* provides: "The Board's review of a case is limited to the evidence in the case record that was before OWCP at the time of its final decision. Evidence not before OWCP will not be considered by the Board for the first time on appeal." 20 C.F.R. § 501.2(c)(1). Thus, the Board is precluded from reviewing this additional evidence for the first time on appeal. *Id.*

ISSUE

The issue is whether appellant has met his burden of proof to expand the acceptance of his claim to include a bilateral hip/pelvic condition as causally related to the accepted May 15, 2001 employment injury.

FACTUAL HISTORY

On May 15, 2001 appellant, then a 34-year-old city letter carrier, filed a traumatic injury claim (Form CA-1) alleging that, on that date, he sustained a neck injury as a result of a motor vehicle accident while in the performance of duty. OWCP accepted the claim for neck sprain, and back sprain of the thoracic and lumbar regions. It paid appellant wage-loss compensation on the supplemental rolls from November 20, 2006 through August 23, 2008. On February 24, 2021 OWCP expanded the acceptance of the claim to include an aggravation of disc degeneration, thoracic region.

On November 7, 2022 Dr. Laura E. Ross, an osteopath and Board-certified orthopedic surgeon, requested that appellant's claim be expanded to include complaints of pain in the hip and pelvis. She indicated that appellant also had an L5 radiculopathy which can cause hip pain.

On December 23, 2022 OWCP routed a December 23, 2022 statement of accepted facts (SOAF) and the case file to Dr. Michael M. Katz, a Board-certified orthopedic surgeon serving as a district medical adviser (DMA), for review and a determination of whether the acceptance of appellant's claim should be expanded to include additional hip/pelvic conditions.

In a December 27, 2022 report, Dr. Katz reviewed the SOAF and medical record. He noted that an October 5, 2019 magnetic resonance imaging (MRI) scan of appellant's lumbar spine demonstrated L4-L5 broad-based posterior disc herniation with annular tear and thecal sac deformity impinging upon the transversing L5 nerve roots and bilateral proximal foraminal extension. Given the MRI scan findings, Dr. Katz opined that the lumbar discs could produce findings consistent with spondylosis and degenerative disc disease. He also noted that Dr. Ross did not provide any physical examination findings to support any intrinsic pathological process involving the hips or pelvis. Dr. Katz explained that the hip and pelvic pain Dr. Ross referenced in her report were complaints, not specific medical conditions. Thus, he opined that the pain referenced by Dr. Ross was vague, ill-defined, and unsupported by specific anatomic or physical examination findings to support any specific diagnosis.

In a June 15, 2023 report, Dr. Ross opined that the pain in appellant's right hip and pelvis directly resulted from the May 2001 employment injury, which caused the disc pathology in his lower back and the right L5 radiculopathy. She indicated that the right L5 radiculopathy would cause pain in and about the hip. Dr. Ross indicated that appellant's hip examinations evaluated the hip joint, which functioned fine, with some mild tenderness to palpation along the outer aspect of the right hip. She noted that when appellant walked, he had an antalgic gait favoring his right side, secondary to the right L5 radiculopathy and low back condition, which caused increased pain in his right hip. Dr. Ross concluded that appellant had right hip pain as a result of the May 2001 injury.

On August 22, 2023 OWCP requested that Dr. Katz, serving as the DMA, comment on the June 15, 2023 report from Dr. Ross.

In an August 25, 2023 addendum, Dr. Katz opined that, based on Dr. Ross' June 15, 2023 narrative report, and the MRI scan, acceptance of the claim should be expanded to include lumbar radiculopathy.

By decision dated September 28, 2023, OWCP denied expansion of the acceptance of the claim to include hip and pelvic pain. The weight of the medical evidence was accorded by OWCP to the opinion of Dr. Katz, the DMA.

On February 8, 2024 appellant requested reconsideration. In a June 29, 2023 addendum report, Dr. Ross opined that appellant suffered from trochanteric bursitis in his bilateral hips and perineal pain in his pelvis directly related to the May 15, 2001 work injury, which caused disc pathology in his lower back and right L5 radiculopathy. She reiterated appellant's physical examination findings and again concluded that appellant's antalgic gait favoring his right side, secondary to the right L5 radiculopathy and low back condition, caused increased pain in his right hip. Dr. Ross further concluded that appellant's right hip pain was a result of the May 15, 2001 injury.

By decision dated February 14, 2024, OWCP affirmed in part and vacated in part the September 28, 2023 decision. It accepted the additional condition of lumbar radiculopathy.

LEGAL PRECEDENT

When an employee claims that a condition not accepted or approved by OWCP was due to an employment injury, he or she bears the burden of proof to establish that the condition is causally related to the employment injury.³ To establish causal relationship between the condition as well as any additional conditions claimed and the employment injury, an employee must submit rationalized medical evidence.⁴ 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

In connection with an expansion claim, the claimant bears the burden of proof to establish a claim for any consequential injury.⁶ In discussing the range of compensable consequences, once the primary injury is causally connected with the employment, the question is whether

³ S.S., Docket No. 23-0391 (issued October 24, 2023); M.M., Docket No. 19-0951 (issued October 24, 2019); Jaja K. Asaramo, 55 ECAB 200, 204 (2004).

⁴ S.S., *id.*; T.K., Docket No. 18-1239 (issued May 29, 2019); M.W., 57 ECAB 710 (2006); John D. Jackson, 55 ECAB 465 (2004).

⁵ T.K., *id.*; L.J., 59 ECAB 408 (2008).

⁶ V.K., Docket No. 19-0422 (issued June 10, 2020); A.H., Docket No. 18-1632 (issued June 1, 2020); I.S., Docket No. 19-1461 (issued April 30, 2020).

compensability should be extended to a subsequent injury or aggravation related in some way to the primary injury.⁷

ANALYSIS

The Board finds that appellant has not met his burden of proof to expand the acceptance of his claim to include a bilateral hip/pelvic condition as causally related to the accepted May 15, 2001 employment injury.

In reports dated November 7, 2022 and June 15, 2023, Dr. Ross requested that appellant's claim be expanded to include hip and pelvic pain. She indicated that appellant's L5 radiculopathy could cause hip pain as it altered his gait, favoring his right side. In the June 29, 2023 addendum to her June 15, 2023 report, Dr. Ross related a diagnosis of bilateral hip trochanteric bursitis. She again indicated that when appellant walked, he had an antalgic gait favoring his right side, secondary to the right L5 radiculopathy and low back condition, which caused increased pain in his right hip, and therefore appellant's hip pain was caused by the May 15, 2001 employment injury. Dr. Ross, however, did not provide an opinion regarding the cause of appellant's additional conditions. The Board has held that medical evidence that does not offer an opinion regarding the cause of an employee's condition is of no probative value on the issue of causal relationship.⁸ Thus, this evidence is of limited probative value and is insufficient to establish expansion of the claim.⁹

As the medical evidence of record is insufficient to establish causal relationship between the diagnosed bilateral hip/pelvic condition and the accepted May 15, 2001 employment injury, the Board finds that appellant has not met his burden of proof.

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(a) and 20 C.F.R. §§ 10.605 through 10.607.

CONCLUSION

The Board finds that appellant has not met his burden of proof to expand the acceptance of his claim to include a bilateral hip/pelvic condition as causally related to the accepted May 15, 2001 employment injury.

⁷ *K.S.*, Docket No. 17-1583 (issued May 10, 2018).

⁸ *C.R.*, Docket No. 23-0330 (issued July 28, 2023); *K.K.*, Docket No. 22-0270 (issued February 14, 2023); *S.J.*, Docket No. 19-0696 (issued August 23, 2019); *M.C.*, Docket No. 18-0951 (issued January 7, 2019); *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

⁹ *S.S.*, *supra* note 3; *M.C.*, Docket No. 18-0361 (issued August 15, 2018).

ORDER

IT IS HEREBY ORDERED THAT the February 14, 2024 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: May 28, 2024
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