

File Number:
HR13-D-H

U.S. DEPARTMENT OF LABOR

RECEIVED JUN 10 2016

OFFICE OF WORKERS' COMP PROGRAMS
PO BOX 8300 DISTRICT 50
LONDON, KY 40742-8300
Phone: (202) 693-0045

Date of Injury:
Employee:

Dear Ms.

This is in reference to your workers' compensation claim. Pursuant to your request for a hearing, the case file was transferred to the Branch of Hearings and Review.

A preliminary review was completed on the case. Based upon that review, it has been determined that the decision of the District Office should be reversed as outlined in the attached decision.

Your case file has been returned to the Jacksonville District Office. You may contact that office by writing to our Central Mail Room at the following address:

US DEPARTMENT OF LABOR
OFFICE OF WORKERS' COMP PROGRAMS
PO BOX 8300 DISTRICT 6 JAC
LONDON, KY 40742-8300

Sincerely,

Electronically Signed

David Leach
Hearing Representative

PAUL H FELSER
FELSER LAW FIRM, P.C.
QUEESBOROUGH BANK BUILDING
7393 HODGSON MEMORIAL DRIVE
SUITE 102
SAVANNAH, GA 31406

If you have a disability (a substantially limiting physical or mental impairment), please contact our office/claims examiner for information about the kinds of help available, such as communication assistance (alternate formats or sign language interpretation), accommodations and modifications.

Washington DC, June 07, 2016

U.S. DEPARTMENT OF LABOR
Office of Workers' Compensation Programs

DECISION OF THE HEARING REPRESENTATIVE

In the matter of the claim for compensation under Title 5, U.S. Code 8101 et seq.
of _____ claimant; Employed by the _____
Case no. _____

Merit consideration of the claim was completed in Washington, DC. As a result,
the decision of the Office dated October 14, 2015 is hereby set aside, for the
reasons set forth below:

The issue for determination is whether the evidence is sufficient to establish a
work-related injury in the performance of duty, in the manner alleged.

The claimant is an employee of the _____ where she works as a _____
She filed form CA-1 "Notice of Traumatic Injury" on _____
alleging that she was injured while working on _____ when she
tripped and fell when she was delivering a package and was startled by a cat.
The claimant alleged this resulted in an injury to the right hip. On the back of the
form, the employer indicated that knowledge of the facts about the injury agreed
with the statements of the claimant, and verified she was in the performance of
duty when the incident took place.

On October 14, 2015, a formal Notice of Decision was issued, denying the claim
with a finding that the claimant had failed to provide a medical report sufficient to
establish a causal relationship between the claimed medical condition and the
work incident of _____. It was noted that, although the medical records
submitted to the file contained a history of injury, there was no doctor's medical
opinion explaining how the claimed condition was caused or aggravated by the
incident when the claimant tripped and fell.

The claimant disagreed with this decision and requested an appeal in the form of
an Oral Hearing before the Branch of Hearings and Review.

Based on my initial consideration of the evidence of record, I find that the case is
not in posture for a Hearing. Acceptance of the claim is warranted based on the
medical evidence that is already of record.

A claimant seeking benefits under the FECA has the burden of proof to establish
the essential elements of his or her claim. When the claimant alleges an injury in
the performance of duty, the claimant must submit sufficient evidence to
establish that he or she experienced a specific event, incident or exposure

occurring at the time, place and in the manner alleged. The claimant must also establish that such event, incident or exposure caused an "injury" as defined in the Act and its regulations.¹ The term "injury" as defined by the FECA refers to some physical or mental condition caused by trauma or repeated exposure to, or contact with, certain factors, elements, or conditions.² As part of his burden, the claimant must submit medical evidence establishing a firm diagnosis of the condition for which he seeks compensation benefits.³

In the current case, there is no question that the _____ took place in the manner described by the claimant. The employer did not challenge the claim, and expressed agreement with the claimant's account of the injury. The employer indicated the claimant was in the performance of duty when she tripped and fell while delivering mail or _____. The claimant filed form CA-1 within 2 days of the incident.

Medical records in the file establish the claimant received emergency medical treatment on _____ including X-rays and CT scan of the right hip. Progress notes by _____ MD, the emergency room physician, dated _____ indicated the claimant was seen for right hip pain after tripping and falling at work. The claimant reported a prior bilateral hip replacement, and she felt her hip pop out of place. On the basis of examination findings and objective test results, Dr. _____ diagnosed mildly displaced acute right acetabular fracture, no dislocation.

Subsequent medical records indicate the claimant continued treatment for the right hip injury at _____ where she saw Dr. _____. Treatment records are available for visits on _____ and _____ and noted the claimant was off work during this period as a result of the injury.

Dr. _____ provided a completed form CA-16 on _____ indicating the claimant was seen for work-related right acetabular peri-prosthetic fracture due to a fall at work one week prior, landing on her right hip.

In the record dated _____ Dr. _____ provided the following statement supporting causal relationship between the right hip condition and the work incident of _____

Ms. _____ has also requested that we provide her with some additional documentation regarding her injury for the U.S. Department of Labor. Briefly, to summarize, Ms. _____ underwent a right total hip replacement in _____ which was performed by my partner, Dr. _____ did very well following her surgery and resumed essentially normal

¹ *Melissa A. Carter*, 45 ECAB 618 (1994.)

² *Christine S. Hebert*, 49 ECAB ____ (Docket No. 96-812, issued August 4, 1998.)

³ *Patricia Bolleter*, 40 ECAB 373 (1988).

activities. Unfortunately, while working as a letter carrier on she was delivering a package and lost her footing on some uneven sidewalk and fell onto her right hip and buttock. She was seen at in where a CT scan demonstrated a right pelvic fracture in close proximity to her previously placed hip replacement. She was referred for orthopedic follow-up and she saw us on and was evaluated by PA-C and I also personally reviewed her films at that time and nonoperative management of her pelvic fracture was recommended, with protected weightbearing with crutches. She has also followed up with me on in addition to today's visit on Her radiographs have demonstrated progressive healing of her fracture, without evidence of complication related to her previously placed prosthesis. Clearly, her pelvic fracture is a direct result of her work-related ground-level fall, which occurred on and she seems to be responding well to conservative management. As outlined above, we have released her back to light duty assignment as of today's date and we will reevaluate her in 4 weeks. Please let me know if I can be of any additional assistance.

Dr. has provided a firm diagnosis. He explained how he arrived at this diagnosis based on an accurate history of injury, his clinical findings on examination and objective test results. He provided his unequivocal medical opinion that the work incident directly caused the identified medical condition, right acetabular periprosthetic fracture.

I find that the reports by Dr. are sufficient to meet the claimant's burden of proof. His medical opinion is consistent with the medical evidence of record, and the facts surrounding the claim. There is a logical connection that can be made between the work incident, a fall on the right hip, and the diagnosis identified by Dr.

A person who claims benefits under the FECA has the burden of establishing the essential elements of his claim, including the fact that he sustained an injury while in the performance of duty. Although compensation awards must be based on reliable, probative and substantial evidence, the evidence required is only that necessary to convince the adjudicator that the conclusion drawn is rational and sound; it is not necessary that the evidence be so conclusive as to establish causal connection beyond all possible doubt. Where the relative circumstances strongly suggest a causal relationship and where the medical evidence also supports a causal relationship, appellant has met his burden of proof.⁴

In the current case, the claim can be accepted, as the circumstances surrounding the claim and medical evidence of record strongly supports a causal relationship between the diagnosed medical condition and the work incident described by the claimant.

⁴ *John P. Broll*, 42 ECAB ___ (Docket No. 90-2001, issued February 22, 1991).

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For the reasons set forth above, the decision dated October 14, 2015 is hereby reversed. The case is returned to the District Office for actions consistent with this decision, including acceptance of the claim for the following work-related medical condition: right acetabular periprosthetic fracture.

Issued:
Washington, D.C.

Electronically Signed

DAVID S. LEACH
Hearing Representative
for
Director, Office of Workers'
Compensation Programs