

Appellant submitted an October 22, 1977 medical report of Dr. P.D. Bradford, an employing establishment physician, who provided findings regarding her preemployment physical and mental conditions. A disability certificate from Dr. Maria D. Wellman, an internist, indicated that appellant was evaluated on April 28, 2004 and found unable to work. Dr. Wellman released appellant to return to work on May 3, 2004.

In a June 30, 2004 report, Dr. Jeffrey R. Cusmariu, a Board-certified orthopedic surgeon, diagnosed right acromioclavicular joint osteoarthritis and bilateral shoulder impingement syndrome. Appellant was permitted to perform light-duty work with certain physical restrictions from June 21 through July 21, 2004. Dr. Cusmariu's June 21, 2004 note indicated that appellant was seen on that date. On September 19, 2004 he diagnosed right shoulder pain and ruled out an infection. Treatment notes from the employing establishment's health unit indicated that appellant was evaluated during the period July 7, 1983 to October 31, 1991.

In an October 22, 2004 memorandum, the employing establishment contended that the medical evidence submitted by appellant was insufficient to establish her claim.

By letter dated October 29, 2004, the Office advised appellant that the evidence submitted was insufficient to establish her claim. The Office addressed the factual and medical evidence needed to establish her claim.

Appellant submitted a laboratory report initialed by Dr. Cusmariu on August 2, 2004, which provided illegible test results. An August 6, 2004 magnetic resonance imaging (MRI) scan report from Dr. Donald B. Williams, a Board-certified radiologist, was initialed by Dr. Cusmariu. It found increased activity primarily in the right shoulder, both knees and the right foot. The findings were consistent with degenerative disease but further x-ray evaluation was necessary. A July 19, 2004 MRI scan report regarding the right shoulder of Dr. Ruth D. Snow, a Board-certified radiologist, and initialed by Dr. Cusmariu. It diagnosed supraspinatus tendinosis with an intrasubstance tear distally, infraspinatus tendinosis and subacromial-subdeltoid bursal fluid collection. It also diagnosed glenohumeral joint degenerative arthritic changes with erosions of superomedial humeral head and humeral head marrow edema. There was large shoulder joint effusion and degenerative changes involving the glenoid labrum and bigliani Type III acromion and hypertrophic osteoarthritic changes of the acromioclavicular joint. A September 28, 2004 laboratory report initialed by Dr. Cusmariu on October 1, 2004, showed the results of a blood test. In treatment notes dated from June 21 through October 6, 2004, Dr. Cusmariu diagnosed bilateral shoulder impingement syndrome, right greater than the left, right acromioclavicular osteoarthritis with impingement, right shoulder pain with limited shoulder flexion, idiopathic osteonecrosis of the humeral head versus pathologic process and resolving left shoulder impingement syndrome.

A September 24, 2004 pathology report for fluids removed from appellant's right shoulder by Dr. William T. Devos, a Board-certified pathologist, and was initialed by Dr. Cusmariu on September 30, 2004. An appointment slip indicated that appellant was scheduled to be evaluated by Dr. Prameela D. Goli, a rheumatologist, on December 7, 2004.

Appellant provided a statement describing her work duties, activities outside her federal employment and the development of her claimed shoulder injury.

By decision dated December 23, 2004, the Office found that appellant did not sustain an injury while in the performance of duty. The medical evidence of record failed to establish a causal relationship between the alleged condition and appellant's employment duties.

On January 17, 2005 appellant requested an oral hearing before an Office hearing representative. In a January 26, 2005 statement, she related that she was working on a machine and did not experience pain until she arrived at home and tried to move her arm. While lifting mail onto a roller appellant did not pay any attention to the pain she experienced. She stated that both shoulders hurt but the right one gave her trouble while lifting mail.

In a January 26, 2005 statement, Ernest E. Kidd, Jr., appellant's supervisor, related that appellant stated that she had seen a doctor for arthritis prior to the claimed injury.

Following the July 28, 2005 hearing, appellant stated that the reference to an injury to her left shoulder was in error. Instead, she claimed an injury to her right shoulder.

By decision dated September 30, 2005, an Office hearing representative affirmed the December 23, 2004 decision. The evidence of record was insufficient to establish that appellant sustained an injury causally related to her work duties.¹

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act² has the burden of establishing the essential elements of her claim including the fact that the individual is an "employee of the United States" within the meaning of the Act, that the claim was timely filed within the applicable time limitation period of the Act, 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 compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁴

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

¹ On appeal appellant has submitted additional evidence. The Board may not consider evidence for the first time on appeal which was not before the Office at the time it issued the final decision in the case. 20 C.F.R. § 501.2(c). Appellant can submit this evidence to the Office and request reconsideration. 5 U.S.C. § 8128; 20 C.F.R. § 10.606.

² 5 U.S.C. §§ 8101-8193.

³ *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

⁴ *See Delores C. Ellyett*, 41 ECAB 992, 994 (1990); *Ruthie M. Evans*, 41 ECAB 416, 423-25 (1990).

diagnosed condition is causally related to the employment factors identified by the claimant. The medical evidence required to establish a causal relationship 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 Board finds that appellant has failed to establish a causal relationship between her right shoulder conditions and her federal employment.

Appellant submitted Dr. Bradford's report regarding her preemployment physical and mental conditions, Dr. Rosser's instruction sheet for the preparation of a colonoscopy and treatment notes from the employing establishment's health unit. This evidence fails to address a causal relationship between the claimed injury and appellant's employment. The Board has held that medical evidence that does not offer any opinion regarding causal relationship is of diminished probative value on the issue of causal relationship.⁶ Further, the evidence submitted is of diminished probative value to the issue in this appeal since it predates the time of the claimed April 2004 injury. The Board finds therefore that Dr. Bradford's report, Dr. Rosser's instruction sheet and the employing establishment's health unit notes are insufficient to establish appellant's claim.

Dr. Wellman's April 28, 2004 disability certificate indicated that appellant could return to work on May 3, 2004. However, Dr. Wellman's disability certificate is insufficient to establish appellant's claim because it did not provide a specific diagnosis or explain how the diagnosed condition was caused or aggravated by appellant's employment.⁷

Dr. Cusmariu's reports and treatment notes diagnosed right acromioclavicular joint osteoarthritis, bilateral shoulder impingement syndrome, right shoulder pain, idiopathic osteonecrosis of the humeral head degenerative disease, tendinosis and fluid collection. However, he did not provide an opinion regarding the cause of appellant's shoulder conditions. There is no narrative report of the physician which explains how appellant's job duties would cause or aggravate her shoulder conditions. The Board notes that pain is generally a symptom, not a diagnosis, and does not constitute a basis for payment of compensation.⁸ As Dr. Cusmariu

⁵ *Victor J. Woodhams*, 41 ECAB 345, 351-52 (1989).

⁶ *Ellen L. Noble*, 55 ECAB ____ (Docket No. 03-1157, issued May 7, 2004).

⁷ *Daniel Deparini*, 44 ECAB 657 (1993).

⁸ *See Robert Broome*, 55 ECAB ____ (Docket No. 04-93, issued February 23, 2004).

did not address causal relationship his reports and treatment notes are insufficient to establish appellant's claim.⁹

Appellant expressed her belief that her alleged right shoulder conditions resulted from her employment duties. 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.¹⁰ 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.¹¹ Causal relationship must be substantiated by reasoned medical opinion evidence, which is appellant's responsibility to submit. Therefore, appellant's belief that her right shoulder conditions were caused by her work duties is not determinative.

As appellant did not provide the necessary medical evidence to establish that she sustained an injury while in the performance of duty, the Board finds that she has failed to satisfy her burden of proof in this case.

CONCLUSION

The Board finds that appellant has failed to establish that she sustained an injury while in the performance of duty.

⁹ *Ellen L. Noble, supra* note 6.

¹⁰ *Roy L. Humphrey, 57 ECAB* ____ (Docket No. 05-1928, issued November 23, 2005).

¹¹ *Sandra D. Pruitt, 57 ECAB* ____ (Docket No. 05-739, issued October 12, 2005).

ORDER

IT IS HEREBY ORDERED THAT the September 30, 2005 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: October 23, 2006
Washington, DC

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

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

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