



shoulder.<sup>1</sup> She stated that over the years she had performed her repetitive motion duties, which included use of her hands and reaching above her shoulder in casing mail. Appellant stated that her job duties also aggravated her “original injury.” She first became aware of her condition on April 20, 2005 and a possible connection to her employment on January 16, 2006.

In an October 11, 2006 letter, the Office requested a comprehensive medical report explaining the relationship of appellant’s left shoulder condition to her employment.

In a January 16, 2004 report, Dr. Daniel N. Metzger, an attending family practitioner, stated that appellant sustained a work-related left shoulder injury at work on July 28, 1998. She continued to have pain and had consulted an orthopedic specialist.

In reports dated December 6, 2005 to January 27, 2006, Dr. Terry K. Gemas, an attending orthopedic surgeon, stated that appellant had cervical and left shoulder discomfort caused by an incident on July 20, 1998 when she lifted a heavy bucket of mail.<sup>2</sup> A magnetic resonance imaging (MRI) scan arthrogram revealed a SLAP type II tear of her left shoulder. He diagnosed chronic neck and left shoulder pain caused by the SLAP tear. Dr. Gemas stated that in a May 25, 2006 report, “LET ME BE VERY CLEAR, THE SLAP-TYPE II INJURY TO [APPELLANT’S] LEFT SHOULDER WAS CAUSED AT WORK ON JULY 20, 1998.” (Emphasis in the original.) On October 26, 2006 Dr. Gemas stated:

“[Appellant] has been a patient of mine for several years and has been treated ongoing for her left shoulder. Initially, injury was in July 1998 and recently April 20, 2005. MRI (scan) arthrogram from April 2005 showed a SLAP type II tear. Since that time [appellant] has continuously sought medical treatment and assistance filing a claim.

“[Appellant] suffers from ongoing burning, stabbing and numbness in her left shoulder. Throughout her daily job duties she experiences pins and needles to her left shoulder down to her arm. [Her] pain increases with excess use such as above shoulder reaching and there is noted limitation over the past year. We have attempted cortisone injections and conservative treatment, all to which there was no relief.

“In my medical opinion, [appellant] did suffer a repetitive trauma occurrence to her left shoulder due to her job duties as described....”

By decision dated November 27, 2006, the Office denied appellant’s claim on the grounds that the evidence failed to establish that she sustained a left shoulder injury causally related to factors of her employment.

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<sup>1</sup> “SLAP” is an acronym for “Superior Labrum Anterior [to] Posterior.” This condition involves a tear of the superior labrum of the shoulder. A SLAP type II tear involves detachment of the biceps anchor and superior labrum. See The Orthopedic Journal at Harvard Medical School Online, “Superior Labral Tear of the Shoulder, Surgical Repair Using a Bioabsorbable Knotless Suture Anchor,” Conrad Wang, MD, *et al.*

<sup>2</sup> Appellant has an accepted claim for a July 20, 1998 injury to her lower back and left shoulder under the Office File No. 160319889. See also *Regina Howard*, Docket No. 07-1469 (issued April 17, 2007).

On December 18, 2006 appellant requested an oral hearing that was held on June 4, 2007.

In a December 6, 2005 report, Dr. Gemas stated that appellant had chronic neck and left shoulder pain that began on July 20, 1998 when she lifted a heavy bucket of mail. Appellant's main complaint was posterior pain in the trapezius area of her left shoulder which radiated to her arm at times. Dr. Gemas provided findings on physical examination and diagnosed chronic left shoulder and neck pain. In a January 27, 2006 report, he stated that appellant had a SLAP type II tear of her left shoulder, an injury that could occur from either a distraction-type injury such as the incident on July 20, 1998, versus a compression-type injury. Dr. Gemas indicated that conservative treatment had failed and surgery was planned.

In notes dated January 4 and May 17, 2005, Dr. Benjamin J. Cunningham, a specialist in treatment of the spine, stated that appellant injured her left shoulder and neck on July 20, 1998 when she lifted a heavy bucket of mail. Appellant had experienced burning and stabbing pain and tenderness in her shoulder since that time, radiating to her arm. Dr. Cunningham diagnosed chronic left shoulder supraspinatus tendinitis, left shoulder impingement and a SLAP lesion type II. Appellant was considering surgery.

In a June 7, 2007 report, Dr. Metzger stated that appellant initially injured her left shoulder on July 20, 1998 while performing her regular work duties, which included repetitive use activities. A 1999 MRI scan revealed joint fluid and suggested mild impingement. She was treated and maintained in limited-duty status. Appellant remained in pain. An April 2005 MRI scan revealed a SLAP type II tear in her left shoulder. Dr. Metzger stated that appellant's original injury should be upgraded to a SLAP tear. He stated: "In my medical opinion [appellant's] current complaints and injury [are] a direct result of current repetitive job duties and she requires ongoing medical treatment." Dr. Metzger indicated that she should remain on limited duty but would require time off to properly treat her ongoing injury.

By decision dated August 2, 2007, an Office hearing representative affirmed the November 27, 2006 decision.

### **LEGAL PRECEDENT**

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 evidence.<sup>3</sup> 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 condition and the implicated employment factors. The opinion of the physician must

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<sup>3</sup> *Michael S. Mina, 57 ECAB 379 (2006).*

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.<sup>4</sup>

An award of compensation may not be based on surmise, conjecture, speculation or upon appellant's own belief that there is a causal relationship between his claimed injury and his employment.<sup>5</sup> To establish a causal relationship, appellant must submit a physician's report in which the physician reviews the employment factors identified by appellant as causing his condition and, taking these factors into consideration, as well as findings upon physical examination of appellant and his medical history, state whether the employment factors caused or aggravated appellant's diagnosed conditions and present medical rationale in support of his or her opinion.<sup>6</sup>

### ANALYSIS

Appellant alleged that she sustained a SLAP type II injury to her left shoulder beginning on April 20, 2005 due to repetitive use of her hands at work while casing mail. She also alleged that her job duties aggravated her 1998 employment injury.

In reports dated 2004 and 2007, Dr. Metzger stated that appellant initially injured her left shoulder on July 20, 1998 while performing her regular work duties which included repetitive use activities. Appellant was treated and maintained in limited-duty status but remained in pain. An April 2005 MRI scan revealed a SLAP type II tear in her left shoulder. Dr. Metzger stated that appellant's original injury should be upgraded to a SLAP tear. He stated: "In my medical opinion [appellant's] current complaints and injury [are] a direct result of current repetitive job duties and she requires ongoing medical treatment." Dr. Metzger's opinion regarding causal relationship is contradictory in that he first states that appellant's 1998 injury should be upgraded to a SLAP tear but later states that her condition is due to current repetitive work duties. Further, any claim related to appellant's accepted July 20, 1998 injury should be submitted under the Office File No. 160319889. Dr. Metzger did not provide a description of appellant's repetitive work duties alleged to have caused her left shoulder condition in April 2005. Due to these deficiencies, his reports are insufficient to establish that appellant sustained a left shoulder injury in April 2005 causally related to factors of her employment.

In 2005 Dr. Cunningham stated that appellant injured her left shoulder and neck on July 20, 1998 when she lifted a heavy bucket of mail. Appellant had experienced pain in her shoulder since that time. Dr. Cunningham diagnosed chronic left shoulder supraspinatus tendinitis, left shoulder impingement and a SLAP lesion type II. However, he provided insufficient medical rationale explaining how the left shoulder conditions he diagnosed in 2005 were caused or aggravated by appellant's job duties. Therefore, Dr. Cunningham's opinion is

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<sup>4</sup> *Gary J. Watling*, 52 ECAB 278 (2001); *Gloria J. McPherson*, 51 ECAB 441 (2000).

<sup>5</sup> *Donald W. Long*, 41 ECAB 142 (1989).

<sup>6</sup> *Id.*

not sufficient to establish that appellant sustained a work-related left shoulder injury in April 2005.

In his 2005 and 2006 reports, Dr. Gemas stated that appellant had chronic cervical and left shoulder pain caused by an incident on July 20, 1998 when she lifted a heavy bucket of mail. He stated in his May 25, 2006 report: "LET ME BE VERY CLEAR, THE SLAP-TYPE II INJURY TO [APPELLANT'S] LEFT SHOULDER WAS CAUSED AT WORK ON JULY 20, 1998." However, Dr. Gemas later stated that appellant's work duties in April 2005 caused her to experience pain and a pins and needles sensation in her left shoulder. This indicates a new injury. He opined that appellant had repetitive trauma from excessive reaching above the shoulder in her current job duties. However, he did not describe these job duties. Dr. Gemas did not provide medical rationale explaining how specific job duties caused appellant's left shoulder condition in April 2005. Due to these deficiencies, his reports are not sufficient to establish that appellant sustained a left shoulder injury in April 2005 causally related to her employment.

### **CONCLUSION**

The Board finds that appellant failed to meet her burden of proof in establishing that she sustained a left shoulder injury in April 2005 causally related to factors of her federal employment.

### **ORDER**

**IT IS HEREBY ORDERED THAT** the decisions of the Office of Workers' Compensation Programs dated August 2, 2007 and November 27, 2006 are affirmed.

Issued: May 6, 2008  
Washington, DC

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

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

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