

On April 8, 2009 the Office advised appellant that it required additional information to determine whether she was eligible for compensation benefits. It asked her to submit a

comprehensive medical report from a treating physician describing her symptoms and the medical reasons for her condition and an opinion as to whether her claimed condition was causally related to her federal employment. The Office requested that appellant submit any additional evidence within 30 days.

In an April 4, 2009 treatment note, Dr. Dale E. Epper, Board-certified in family practice, stated that appellant had a strained muscle. He advised that she had a tear or pull in the muscle due to overexertion or stretching. Dr. Epper advised that, although most muscle pulls heal within a few days, the more severe strains could require weeks to heal. He recommended that appellant treat her muscle strain with rest, ice, heat and compression. Appellant was to avoid strenuous activities which tended to bring on muscle pain. Dr. Epper prescribed exercises to strengthen and stretch the injured muscle. He stated that he would schedule a follow-up appointment if appellant's condition did not improve in two weeks.

Appellant submitted two work capacity evaluations from Dr. Epper which diagnosed right arm and shoulder strain and placed her on modified duty from April 4 through 30, 2009. Dr. Epper outlined restrictions on standing, walking, sitting, kneeling, bending, stooping, twisting, grasping, fine manipulation, reaching above the shoulder, pushing/pulling, lifting and operating machinery.

On May 2, 2009 appellant further described her injury. She injured her right upper arm, from the forearm to the shoulder, due to repetitive lifting and repacking heavy items during February 2009. Appellant explained that in February there was a shortage of female workers and therefore she had to perform many tasks, including lifting, folding and loading baby carriages and removing heavy items from the machine table. On March 30, 2009 she was asked to rerun a bag, but because her arm was weak she hit her upper back on the x-ray machine behind her.

By decision dated June 15, 2009, the Office denied appellant's claim, finding that she failed to submit sufficient medical evidence to establish that she sustained a right arm and shoulder condition in the performance of duty.

### **LEGAL PRECEDENT**

An employee seeking benefits under the Federal Employees' Compensation Act<sup>1</sup> has the burden of establishing that 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 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.<sup>2</sup> These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.<sup>3</sup>

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<sup>1</sup> 5 U.S.C. §§ 8101-8193.

<sup>2</sup> *Joe D. Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

<sup>3</sup> *Victor J. Woodhams*, 41 ECAB 345 (1989).

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 is usually 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.<sup>4</sup>

Appellant has the burden of establishing by the weight of the substantial, reliable and probative evidence, a causal relationship between her claimed right arm and shoulder strain and her federal employment. This burden includes providing medical evidence from a physician who concludes that the disabling condition is causally related to employment factors and supports that conclusion with sound medical reasoning.<sup>5</sup>

### ANALYSIS

In the instant case, the Office accepted that appellant performed repetitive lifting of luggage and items as a baggage screener. The Board finds that appellant failed to submit sufficient medical opinion evidence addressing how her claimed right arm and shoulder condition was due to factors of her employment. For this reason, she has not discharged her burden of proof.

The April 4, 2009 treatment records from Dr. Epper noted that appellant had a strained muscle caused by overexertion or stretching. He advised her to rest the muscle and treat it with ice, heat and compression and to avoid strenuous activities. In the April 4 and 19, 2009 reports, Dr. Epper diagnosed right arm and right shoulder strain and placed her on modified duty from April 4 to 30, 2009 under specified work restrictions. These form treatment records fail to provide any history of the repetitive work duties appellant performed or medical opinion explaining how the claimed condition or disability was causally related to her employment activities.<sup>6</sup> The weight of medical opinion is determined by the opportunity for and thoroughness of examination, the accuracy and completeness of physician's knowledge of the facts of the case, the medical history provided, the care of analysis manifested and the medical

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<sup>4</sup> *Id.*

<sup>5</sup> See *Nicolea Bruso*, 33 ECAB 1138, 1140 (1982).

<sup>6</sup> *William C. Thomas*, 45 ECAB 591 (1994).

rationale expressed in support of the stated conclusions.<sup>7</sup> Appellant did not submit any narrative medical opinion which described her job duties or explained the medical process through which such duties would be competent to cause the claimed right arm or shoulder condition.

An award of compensation may not be based on surmise, conjecture or speculation. Neither the fact that appellant's condition became apparent during a period of employment nor the belief that her condition was caused, precipitated or aggravated by his employment is sufficient to establish causal relationship.<sup>8</sup> Causal relationship must be established by rationalized medical opinion evidence and appellant failed to submit such evidence.

### **CONCLUSION**

The Board finds that appellant failed to meet her burden of proof to establish that her right arm or shoulder condition was sustained in the performance of duty.

### **ORDER**

**IT IS HEREBY ORDERED THAT** the June 15, 2009 decision of the Office of Workers' Compensation Programs be affirmed.

Issued: August 9, 2010  
Washington, DC

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

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

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

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<sup>7</sup> See *Anna C. Leanza*, 48 ECAB 115 (1996).

<sup>8</sup> *Id.*