

carrying the bag on his right shoulder resulted in the right rotator cuff tear. Appellant first became aware that his condition was work related on October 3, 2011. His right shoulder was also affected when the bicycle he was riding struck a car on March 18, 2010.

Kaiser Permanente records indicated that appellant was seen at a clinic by a nurse on March 17, 2010 for acute right shoulder pain. The nurse noted that he jammed his arm that day when his bike's tire ran into a concrete wheel stop. Kaiser Permanente progress notes indicate that on March 26, 2010 appellant was treated by Dr. Teny Haroutunian, a family practitioner, who noted that appellant presented with right shoulder pain after he jammed his arm in a bicycle accident several days prior. Dr. Haroutunian also noted that appellant worked as a post office courier. He diagnosed impingement syndrome of the shoulder.

A Kaiser Permanente progress note dated April 16, 2010 from Dr. Vincent Wing-Shun Chen, an orthopedic surgeon, stated that appellant was seen for an initial visit for a right shoulder problem. Dr. Chen related that appellant had fallen off a bike on March 17, 2010 and had experienced pain and weakness to his right shoulder for a month. He also noted a history of bilateral shoulder pain. X-rays taken of appellant's right shoulder on April 16, 2010 were interpreted by Dr. Erick Kyle Lee, Board-certified in internal medicine, as showing mild subacromial spurring.

A May 11, 2010 Kaiser Permanente form report noted that appellant experienced pain in his right shoulder and had sustained a sprain of his right shoulder and right rotator cuff tear. Appellant's condition stemmed from an incident in which he ran into a car while riding his bicycle. A box was checked which noted that the diagnosed condition was not due to his employment. Appellant was scheduled to undergo arthroscopic surgery to repair his right shoulder. The report was cosigned by Dr. Ryushi T. Saisho, Board-certified in family practice.

Appellant submitted an October 3, 2011 report from Dr. Chen, who obtained a history to appellant's right shoulder on March 17, 2010 when he fell off his bike. He was treated in the Kaiser Permanente orthopedic clinic and a magnetic resonance imaging (MRI) scan of his right shoulder showed a chronic rotator cuff tear with associated tendon retraction and muscle atrophy. The chronic nature of the tear indicated that appellant's tendon was torn prior to his March 17, 2010 injury. It concluded that, based on a review of his usual and customary duties as a mail carrier, it was highly probable that his rotator cuff tear was a result of his work duties and that his condition was aggravated by his fall in March 2010.

On November 8, 2011 OWCP advised appellant that it required additional factual and medical evidence to determine whether he was eligible for compensation benefits. It requested a comprehensive report from his treating physician describing his symptoms and the medical reasons for his condition, and an opinion as to whether his right shoulder condition was causally related to his federal employment. OWCP requested that appellant submit this evidence within 30 days.

Appellant submitted treatment notes from Drs. Chen, Saisho and Hartoununian, from March to May 2010. The notes listed findings on examination, which indicated that he was being treated for a torn right rotator cuff sustained in a bicycle accident and discussed whether surgery was appropriate. On June 21, 2010 Dr. Michael Pearl, Board-certified in orthopedic

surgery advised that appellant was to be scheduled for right rotator cuff surgery on June 23, 2010.

Appellant submitted x-ray reports dated March 18, April 13, 16 and 29, 2010 which showed mild degenerative changes in his right shoulder with no fracture or dislocation and mild subacromial spurring. He also underwent MRI scans of his right shoulder on April 16, 21, 22 and 28, 2011.

By decision dated January 20, 2012, OWCP denied appellant's claim, finding that the factual and medical evidence appellant submitted was not sufficient to establish that his claimed right shoulder condition was causally related to factors of employment.

LEGAL PRECEDENT

An employee seeking benefits under FECA² 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 FECA, that the claim was timely filed within the applicable time limitation period of FECA, 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 and every 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 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 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

² 5 U.S.C. § 8101 *et seq.*

³ *Elaine Pendleton*, 40 ECAB 1143 (1989); *Joe D. Cameron*, 41 ECAB 153 (1989).

⁴ *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁵ *Id.*

ANALYSIS

The Board finds that appellant failed to submit sufficient medical evidence to establish that his claimed right shoulder condition was causally related to factors of his employment as a mail handler. For this reason, appellant did not discharge his burden of proof.

Appellant submitted 2010 reports from Kaiser Permanente that listed histories of injury to his right shoulder on March 17, 2010 when he fell from a bike and on March 18, 2010 when his bike struck a car. None of the physicians who treated appellant provided a probative, rationalized medical opinion on how his right shoulder condition was causally related to employment factors.⁶

The only physician of record who offered an opinion regarding causal relationship of appellant's right shoulder condition and his employment was Dr. Chen. In an October 3, 2011 report, Dr. Chen stated that appellant sustained an injury to his right shoulder on March 17, 2010 when he fell off his bike. He stated that an MRI scan of appellant's right shoulder revealed a chronic rotator cuff tear with associated tendon retraction and muscle atrophy. Dr. Chen advised that, given the chronic nature of the tear, appellant probably tore the tendon before the March 17, 2010 injury. He opined that, in light of appellant's usual duties as a mail carrier, it was highly likely that his rotator cuff tear was a result of his work duties and that this condition was aggravated by his fall in March 2010. This opinion however, is of limited probative value as it is not sufficiently rationalized.⁷ The weight of medical opinion is determined by the opportunity for and thoroughness of examination, the accuracy and completeness of the physician's knowledge of the facts of the case, the medical history provided, the care of analysis manifested and the medical rationale expressed in support of stated conclusions.⁸ Dr. Chen did not address appellant's job duties or explain the medical process through which such duties would have been competent to cause the right rotator cuff tear. Moreover, his opinion on causal relationship was "highly likely" speculative in nature. The opinion of the physician must be based on a complete factual and medical background of the employee, must be one of reasonable 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 employee.⁹ As Dr. Chen's opinion was not based upon a complete factual background and was not of reasonable certainty, it is of limited probative value. He did not address the diagnostic studies obtained of the right shoulder following the bike accidents in March 2010 or explain how appellant's work caused or aggravated any tear of the right rotator cuff.

In a May 11, 2010 report, Dr. Saisho advised that appellant had pain in his right shoulder and diagnosed right shoulder sprain and a right rotator cuff. He attributed appellant's condition to the incident in which appellant ran into a car while riding his bicycle. Dr. Saisho scheduled

⁶ See *Geraldine H. Johnson*, 44 ECAB 745 (1993).

⁷ *William C. Thomas*, 45 ECAB 591 (1994).

⁸ See *Anna C. Leanza*, 48 ECAB 115 (1996).

⁹ *I.J.*, 59 ECAB 408 (2008); *supra* note 4.

appellant for arthroscopic surgery to repair his right shoulder, which was apparently not performed in 2010.

Drs. Pearl, Lee and Hartounian submitted medical reports but did not provide an opinion on causation.

The record also contains reports from nurses and physical therapists. 5 U.S.C. § 8101(2) of FECA provides that the term “physician” includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors and osteopathic practitioners within the scope of their practice as defined by State law. A nurse, physician’s assistant or, physical and occupational therapist are not physicians as defined by FECA. Their opinions regarding causal relationship are of no probative medical value.¹⁰

The Board finds that appellant did not meet his burden of proof to establish that he sustained a right shoulder condition in the performance of duty.

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 OWCP properly found that appellant failed to meet his burden of proof to establish that he sustained a right shoulder condition in the performance of duty.

¹⁰ See *Roy L. Humphrey*, 57 ECAB 238 (2005).

ORDER

IT IS HEREBY ORDERED THAT the January 20, 2012 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: August 22, 2012
Washington, DC

Richard J. Daschbach, Chief Judge
Employees' Compensation Appeals Board

Patricia Howard Fitzgerald, Judge
Employees' Compensation Appeals Board

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