

In a March 7, 2005 report, Dr. Akbar Nawab, an attending orthopedic surgeon, stated that appellant had been experiencing moderate right shoulder pain for several weeks which worsened with activity. He noted that she worked at the employing establishment, but did not describe her duties. Dr. Nawab provided findings on physical examination and diagnosed rotator cuff tendinitis.

In an April 4, 2005 report, Dr. Mark. E. Petrik, a Board-certified orthopedic surgeon and an associate of Dr. Nawab, stated that on April 2, 2005 appellant was lifting a tray of mail and felt a severe pulling sensation in her right shoulder with pain radiating to the axilla and deltoid area. He made a tentative diagnosis of an exacerbation of preexisting tendinitis bursitis, possibly a rotator cuff tear superimposed on the tendinitis.

In an April 12, 2005 letter, the Office asked appellant to provide additional evidence, including a detailed narrative report from her attending physician with a history of the diagnosed condition and an explanation as to how her work activities caused or aggravated her right shoulder condition.

An April 18, 2005 magnetic resonance imaging (MRI) scan report indicated advanced hypertrophic degenerative arthrosis impinging on the subjacent rotator cuff, resulting in supraspinatus tendinopathy, a possible focal interstitial rotator cuff tear and degenerative changes of the glenohumeral (shoulder) joint with degenerative changes noted at the glenoid labrum (socket joint of the shoulder and supporting tissue).

In an undated report, Dr. Nawab provided findings on examination and diagnosed right rotator cuff tendinitis. In an April 25, 2005 report, he diagnosed a superior labral anterior posterior (SLAP) shoulder tear and acromioclavicular (AC) joint arthrosis with impingement. Dr. Nawab recommended surgery.

By decision dated May 16, 2005, the Office denied appellant's claim, finding that she failed to establish that her right shoulder condition was causally related to her employment. Appellant requested reconsideration and submitted additional evidence.

Emergency room notes dated April 2, 2005 indicate that appellant had right shoulder pain after lifting trays of mail at work and had experienced similar pain one month previously. The diagnosis was a possible rotator cuff tear.

In notes dated July 11, 2005, Dr. Nawab stated that appellant's SLAP tear was causally related to her job activities. He opined that her preexisting arthritis, which was minimal at her AC and glenohumeral joints, did not contribute to the SLAP tear.

By decision dated January 4, 2006, the Office denied modification of the May 16, 2005 decision.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act¹ has the burden to establish 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, that an injury was sustained in the performance of duty as alleged and that any disability or medical condition for which compensation is claimed is causally related to the employment injury.²

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it first must be determined whether the "fact of injury" has been established. There are two components involved in establishing the fact of injury. First, the employee must submit sufficient evidence to establish that she actually experienced the employment incident at the time, place and in the manner alleged.³ Second, the employee must submit medical evidence to establish that the employment incident caused a personal injury.⁴ An employee may establish that the employment incident occurred as alleged, but fail to show that her disability or condition relates to the employment incident.

To establish a causal relationship between a claimant's condition and any attendant disability claimed and the employment event or incident, she must submit rationalized medical opinion evidence based on a complete factual and medical background supporting such a causal relationship. Rationalized medical opinion evidence is medical evidence which includes a physician's 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

Appellant alleged that on April 2, 2005 she was repetitively lifting heavy trays of mail and experienced pain when she "pulled" her right shoulder. Emergency room notes dated April 2, 2005 indicate that appellant experienced right shoulder pain after lifting trays of mail at work and had experienced similar pain one month previously. The diagnosis was a possible rotator cuff tear.

¹ 5 U.S.C. §§ 8101-8193.

² *Elaine Pendleton*, 40 ECAB 1143 (1989).

³ *John J. Carlone*, 41 ECAB 354 (1989).

⁴ *Shirley A. Temple*, 48 ECAB 404 (1997).

⁵ *Gary J. Watling*, 52 ECAB 278 (2001); *Shirley A. Temple*, *supra* note 4.

In March 2005, Dr. Nawab stated that appellant had been experiencing moderate right shoulder pain for several weeks which worsened with activity. He noted that she worked at the employing establishment but did not describe her duties. In April 2005, Dr. Nawab diagnosed rotator cuff tendinitis, a SLAP shoulder tear and AC joint arthrosis with impingement. He stated that appellant's right shoulder SLAP tear was causally related to her job activities. Appellant's preexisting arthritis, which was minimal at her AC and glenohumeral joints, did not contribute to the SLAP tear. Dr. Petrik stated that on April 2, 2005 appellant was lifting a tray of mail and felt a severe pulling sensation in her right shoulder with pain radiating to the axilla and to the deltoid area. He diagnosed an exacerbation of preexisting tendinitis bursitis, possibly a rotator cuff tear superimposed on the tendinitis.

The Board finds that the medical evidence is sufficient to require further development of the medical evidence.⁶ Dr. Nawab had been treating appellant for several weeks for a right shoulder condition, prior to the date she provided as the date of injury, April 2, 2005. He attributed her right shoulder condition to her job activities, although he did not specify the nature of the duties. Dr. Petrik stated that on April 2, 2005 appellant was lifting a tray of mail and felt a severe pulling sensation in her right shoulder with pain and he diagnosed an exacerbation of preexisting tendinitis bursitis. Although the medical evidence is not sufficient to establish that her right shoulder condition was causally related to lifting trays of mail on April 2, 2005, it does suggest an aggravation of a preexisting condition and is sufficient to require further development of the medical evidence. On remand, the Office should refer appellant to an appropriate medical specialist for an examination and evaluation of whether her right shoulder condition was a traumatic injury caused or aggravated by factors of her employment on April 2, 2005 or an occupational disease claim caused by her job activities on more than one day. After such further development as it deems necessary, the Office should issue an appropriate decision on appellant's claim.

CONCLUSION

The Board finds that this case requires further development on the issue of whether appellant's right shoulder condition was caused or aggravated by factors of her employment.

⁶ See *John J. Carlone*, 41 ECAB 354 (1989); *Horace Langhorne*, 29 ECAB 820 (1978). The Board notes that, in the present case, the record contains no medical opinion contrary to appellant's claim and further notes that the Office did not seek advice from an Office medical adviser or refer the case to an Office referral physician for a second opinion. Additionally, the Office's procedure manual provides that a claims examiner may need to seek clarification from an attending physician in order to fully develop and evaluate the medical evidence. Federal (FECA) Procedure Manual, Part 2 -- Claims, *Developing and Evaluating Medical Evidence*, Chapter 2.810.8 (April 1993).

ORDER

IT IS HEREBY ORDERED THAT the decisions of the Office of Workers' Compensation Programs dated January 4, 2006 and May 16, 2005 are set aside and the case remanded for further development consistent with this decision.

Issued: August 17, 2006
Washington, DC

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

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