

**United States Department of Labor  
Employees' Compensation Appeals Board**

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**D.A., Appellant**

**and**

**U.S. POSTAL SERVICE, POST OFFICE,  
Bala Cynwd, PA, Employer**

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**Docket No. 07-376  
Issued: April 11, 2007**

*Appearances:*  
*Thomas R. Uliase, Esq., for the appellant*  
*Office of Solicitor, for the Director*

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

ALEC J. KOROMILAS, Chief Judge  
DAVID S. GERSON, Judge  
JAMES A. HAYNES, Alternate Judge

**JURISDICTION**

On November 28, 2006 appellant filed a timely appeal from a September 7, 2006 Office of Workers' Compensation Programs' merit decision, denying her claim for a right shoulder condition. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of the claim.

**ISSUE**

The issue is whether appellant's right shoulder condition is causally related to factors of her federal employment.

**FACTUAL HISTORY**

This case was previously before the Board. By decision dated April 18, 2006, the Board affirmed a June 15, 2005 Office decision that denied modification of a denial of appellant's

claim for a right shoulder condition.<sup>1</sup> The April 18, 2006 Board decision is incorporated herein by reference.

On June 8, 2006 appellant requested reconsideration and submitted additional evidence. In a May 9, 2006 report, Dr. John D. Kelly, a Board-certified orthopedic surgeon, stated that he treated appellant for a right shoulder rotator cuff tear which required surgery. He stated that this condition, in appellant's age group, was usually traumatic related, especially with retraction or secondary to significant overuse. Dr. Kelly stated that appellant's right shoulder condition was directly related to her federal employment. He stated:

"I looked at my notes, and I do not have any significant episodes of injury defined, but I believe that there is certainly an element of causation regarding [appellant's] work. This is very difficult to prove with any scientific basis[;] it is based on association of the tear with the occupation and this is my understanding. I hope it is of some help."

By decision dated September 7, 2006, the Office denied modification of the June 15, 2005 decision denying modification of the denial of appellant's claim for a right shoulder condition.

### **LEGAL PRECEDENT**

To establish a causal relationship between a claimant's medical conditions and her employment, she must submit rationalized medical opinion evidence based on a complete factual and medical background supporting such a causal relationship.<sup>2</sup> 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 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>3</sup> Neither the fact that a disease or condition manifests itself during a period of employment nor the belief that the disease or condition was caused or aggravated by employment factors or incidents is sufficient to establish causal relationship.<sup>4</sup>

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<sup>1</sup> Docket No. 06-153 (issued April 18, 2006). Appellant, an operation support technician, submitted a claim for a right shoulder condition. She alleged that she aggravated a prior injury by constantly lifting, pulling and pushing items weighing 75 pounds or more while in the performance of duty. By decision dated June 20, 2003, the Office denied her claim. On February 5, 2004 an Office hearing representative affirmed the June 20, 2003 decision but modified it to reflect that the issue presented was whether appellant sustained an occupational disease, rather than a traumatic injury. On June 15, 2005 the Office denied modification of the February 5, 2004 decision.

<sup>2</sup> *Michael S. Mina*, 57 ECAB \_\_\_\_ (Docket No. 05-1763, issued February 7, 2006).

<sup>3</sup> *Gary J. Watling*, 52 ECAB 278 (2001); *Gloria J. McPherson*, 51 ECAB 441 (2000).

<sup>4</sup> *Minnie L. Bryson*, 44 ECAB 713 (1993).

### ANALYSIS

It is not disputed that appellant's job included pushing, pulling and lifting duties. However, the medical evidence is not sufficient to establish that these job duties caused or aggravated her claimed right shoulder condition.

Dr. Kelly stated that he treated appellant for a right shoulder rotator cuff tear which required surgery. He indicated that appellant's right shoulder condition was related to overuse associated with her federal employment. Dr. Kelly stated that his past medical notes did not reflect any significant episodes of injury but he believed that there was an element of causation regarding appellant's work. However, he did not address the specific job duties which contributed to appellant's right shoulder condition. Furthermore, Dr. Kelly did not provide sufficient medical rationale in support of his opinion regarding causal relationship. Medical reports not containing adequate rationale on causal relationship are of diminished probative value and are generally insufficient to meet an employee's burden of proof.<sup>5</sup> Lacking a complete and accurate factual background and sufficient medical rationale addressing the issue of causal relationship, Dr. Kelly's report is not sufficient to establish that appellant's right shoulder condition was caused or aggravated by factors of her employment. Additionally, his May 9, 2006 report is not consistent with his January 28, 2005 report, previously reviewed by the Board in its April 18, 2006 decision. In the January 28, 2005 report, Dr. Kelly attributed appellant's right shoulder condition to a fall at work on May 3, 2002, rather than to occupational factors. Due to these deficiencies, the May 9, 2006 report from Dr. Kelly is not sufficient to establish that appellant's right shoulder condition was caused or aggravated factors of her federal employment.

### CONCLUSION

The Board finds that appellant failed to establish that her right shoulder condition was causally related to factors of her federal employment.

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<sup>5</sup> *Ceferino L. Gonzales*, 32 ECAB 1591 (1981).

**ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated September 7, 2006 is affirmed.

Issued: April 11, 2007  
Washington, DC

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

David S. Gerson, Judge  
Employees' Compensation Appeals Board

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