

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

L.F., Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Little Rock, AR, Employer**

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**Docket No. 10-466
Issued: September 21, 2010**

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

COLLEEN DUFFY KIKO, Judge
MICHAEL E. GROOM, Alternate Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On December 8, 2009 appellant filed a timely appeal from an October 21, 2009 merit decision of the Office of Workers' Compensation Programs. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

ISSUE

The issue is whether appellant established that his left rotator cuff condition was caused by his federal employment.

FACTUAL HISTORY

On July 3, 2008 appellant, a 60-year-old city letter carrier, filed an occupational disease claim (Form CA-2) for a left shoulder ruptured rotator cuff that he attributed to sorting mail and delivering parcels. He first recognized his condition and realized it was caused by his federal employment on March 26, 2007. On July 28, 2008 appellant described the employment duties that he deemed responsible for his condition. He noted that his delivery route required him to

carry mail on his left arm at a 45-degree angle for six hours a day. Appellant submitted a number of progress notes.

On July 11, 2006 Dr. Gregory Ardoin, a Board-certified internist, stated that appellant was a right-hand dominant postal worker who had complaints of right shoulder pain. He noted that a May 23, 2006 magnetic resonance imaging (MRI) scan showed partial tear of the supraspinatus. Dr. Ardoin diagnosed "rotator cuff syndrome."

Appellant submitted a note dated March 26, 2007 in which Dr. Jennifer McCallum, a Board-certified internist, excused him from work for 48 hours. Dr. McCallum requested that appellant collate mail so as to minimize use of his left shoulder. She noted that studies of appellant's left shoulder were normal and diagnosed rotator cuff tendinitis and bursitis.

On August 15, 2007 Dr. Rachel L. Wayne, a Board-certified rheumatologist, reported that appellant was treated for left shoulder pain, with a diagnosis of rotator cuff bursitis/tendinitis. She noted that appellant was a letter carrier and that shoulder pain bothered him at work.

On October 24, 2007 Dr. Adam Woodruff, a Board-certified internist, listed findings on examination and diagnosed "recurrent [left] subacromial bursitis likely related to occupation." He noted that appellant did work that required external rotation of the left shoulder to get mail from his truck to the mailbox.

On May 1, 2008 Dr. Hugo Jasin, a Board-certified internist, presented findings on examination and diagnosed a supraspinatus tear.

On June 4, 2008 Dr. Joe W. Crow, a Board-certified orthopedic surgeon, reported that appellant was seen for left shoulder pain. He noted that appellant had experienced pain for "about a year, not following any known injury." Dr. Crow diagnosed a rotator cuff tear with impingement, subdeltoid bursitis and acromioclavicular arthritis.

On March 31, 2008 Dr. Eleanor Lipsmeyer, a Board-certified internist, set forth findings on examination and diagnosed a left shoulder supraspinatus tear.

Appellant submitted notes from the Veterans Administration (VA) hospital that diagnosed, rotator cuff bursitis and tendinitis and reports from physical therapists.

By decision dated August 14, 2008, the Office denied the claim finding that the medical evidence did not establish that employment factors caused the claimed shoulder condition.

On August 22, 2008 appellant requested an oral hearing.

On February 26, 2009 Dr. Chris Hardesty, a general surgeon, reported that x-rays revealed no evidence of a loose body or any arthritic changes. He wrote:

"His daily work, including lifting bags that are 10 [to] 25 pounds, doing overhead activities, including moving packages, and reaching behind him in his mail truck

are consistent with development of a significant degenerative rotator cuff tear that may be difficult to manage as he recovers and continues his activities.”

A hearing was held on August 4, 2009. Appellant testified concerning his employment history, duties and explained how his work caused his medical condition.

By decision dated October 21, 2009, an Office hearing representative affirmed the August 14, 2009 decision, finding that the medical evidence did not establish that appellant’s shoulder condition was causally related to the accepted work duties.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees’ Compensation Act¹ has the burden of proof to establish the essential elements of his claim by the weight of the evidence,² including that he sustained an injury in the performance of duty and that any specific condition or disability for work for which he claims compensation is causally related to that employment injury.³ As part of his burden, the employee must submit rationalized medical opinion evidence based on a complete factual and medical background showing causal relationship.⁴ The weight of medical evidence is determined by its reliability, its probative value, its convincing quality, the care of the analysis manifested and the medical rationale expressed in support of the physician’s opinion.⁵

To establish that an injury was sustained in the performance of duty in a claim for occupational disease, an employee must submit: (1) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; (2) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; and (3) medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the employee.⁶

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence which includes a physician’s rationalized opinion on whether there is a causal relationship between the employee’s diagnosed condition and the compensable employment factors. The opinion of the physician must be based on a complete factual and medical background of the employee, must be one of reasonable medical certainty,

¹ 5 U.S.C. §§ 8101-8193.

² *J.P.*, 59 ECAB ___ (Docket No. 07-1159, issued November 15, 2007); *Joseph M. Whelan*, 20 ECAB 55, 58 (1968).

³ *G.T.*, 59 ECAB ___ (Docket No. 07-1345, issued April 11, 2008); *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

⁴ *Id.*; *Nancy G. O’Meara*, 12 ECAB 67, 71 (1960).

⁵ *Jennifer Atkerson*, 55 ECAB 317, 319 (2004); *Naomi A. Lilly*, 10 ECAB 560, 573 (1959).

⁶ *See Roy L. Humphrey*, 57 ECAB 238, 241 (2005); *Ruby I. Fish*, 46 ECAB 276, 279 (1994).

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.

ANALYSIS

Appellant identified carrying mail on his left arm at a 45-degree angle for six hours a day as well as sorting and delivering mail as the employment factors he believed responsible for his condition. His burden is to establish that these employment factors caused his claimed shoulder condition. Causal relationship is a medical issue that can only be determined by probative medical opinion evidence. The Board finds appellant did not submit sufficient medical evidence to support that he sustained an injury causally related to his federal employment.

The medical opinion evidence of record consists of reports from Drs. Ardoin, Crow, Jasin, Lipsmeyer, McCallum, Woodruff, all doctors at the VA hospital. While these physicians offered diagnoses of appellant's left shoulder condition, primarily subacromial bursitis/tendinitis, have little probative value on the issue of causal relationship because they lack an opinion that explains how the identified employment factors caused the conditions they diagnosed.⁷ While these reports repeated appellant's allegations of pain while performing his left carrier duties, they offered no rationalized medical opinion actually explaining how appellant's job duties would have caused the diagnosed condition. Neither the fact that appellant's claimed condition became apparent during a period of employment nor his belief that his condition was aggravated by his employment is sufficient to establish causal relationship.⁸

Dr. Hardesty did attempt to provide a very general medical opinion regarding causal relationship. He opined that appellant's employment duties were "consistent with development of a significant degenerative rotator cuff tear." Dr. Woodruff diagnosed "recurrent [left] subacromial bursitis likely related to occupation." He did not explain, however, with supporting medical rationale, how appellant's specific work duty would have physiologically caused the diagnosed condition. Because none of the physicians of record supported their conclusion with any semblance of medical rationale, their opinions are not sufficiently rationalized. Consequently, this evidence does not establish the required causal relationship.

Appellant submitted reports from physical and occupational therapists. Section 8101(2) of the Act 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. As physical and occupational therapists are not physicians as defined under the Act, their opinions regarding diagnosis and causal relationship are of no probative medical value.⁹

⁷ See *Mary E. Marshall*, 56 ECAB 420 (2005) (medical reports that do not contain rationale on causal relationship have little probative value).

⁸ *D.I.*, 59 ECAB ____ (Docket No. 07-1534, issued November 6, 2007); *Ruth R. Price*, 16 ECAB 688, 691 (1965).

⁹ See *Roy L. Humphrey*, 57 ECAB 238 (2005).

An award of compensation may not be based on surmise, conjecture or speculation.¹⁰ The fact that a condition manifests itself or worsens during a period of employment¹¹ or that work activities produce symptoms revelatory of an underlying condition¹² does not raise an inference of causal relationship between a claimed condition and identified employment factors.

Appellant has not submitted medical opinion evidence that adequately explains how the identified employment factors caused or aggravated his shoulder condition. The Board finds appellant has not established causal relationship.

CONCLUSION

The Board finds appellant has not established that he sustained a left rotator cuff injury causally related to his federal employment.

ORDER

IT IS HEREBY ORDERED THAT the October 21, 2009 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: September 21, 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

¹⁰ *Edgar G. Maiscott*, 4 ECAB 558 (1952).

¹¹ *E.A.*, 58 ECAB 677 (2007); *Albert C. Haygard*, 11 ECAB 393, 395 (1960).

¹² *D.E.*, 58 ECAB 448 (2007); *Fabian Nelson*, 12 ECAB 155, 157 (1960).