

¹ 5 U.S.C. § 8101 *et seq.*

experienced pain in the shoulder that radiated down through his arm and into his hand. Appellant first became aware of his condition on January 9, 2012 and of its relationship to his employment on January 10, 2012.

Appellant submitted reports from Dr. Michael Gebetsberger, Board-certified in internal medicine. In a report dated January 11, 2012, Dr. Gebetsberger diagnosed appellant with “other bursitis disorders,” and noted that his left shoulder had been treated by injections of anesthetic and anti-inflammatory steroid. By letter dated January 11, 2012, he recommended that appellant remain off work until January 17, 2012, in order to allow the inflamed bursa and tendons to heal before “resuming aggravating activity.” Dr. Gebetsberger stated: “[Appellant] informs me that an integral part of his job as a mail carrier involves reaching into the back of his vehicle with the left upper extremity to obtain parcels for delivery. This activity, involving abduction and external rotation of the shoulder joint is particularly painful and continued activity such as this will only prolong the period of disability.”

In a report dated April 30, 2012, Dr. Gebetsberger diagnosed allergic rhinitis, rotator cuff syndrome and allied disorders and benign essential hypertension. He noted that appellant’s left shoulder had been retreated in the same manner as on January 11, 2012.

In a narrative statement dated May 20, 2012, appellant related that he began to experience pain in his left shoulder in early January 2012. On January 10, 2012 the pain was of such severity that he was unable to use his left arm or work the remainder of his scheduled days that week. Appellant used his left hand to retrieve parcels from the back of the delivery vehicle and that use of his left arm in this manner placed a great strain on his shoulder joint. He noted that he had been a rural mail carrier for almost 20 years and delivered the mail five to six days per week, for four to five hours per day. Appellant stated that the treatment he had been receiving from his physician over the course of two appointments on January 11 and April 30, 2012, had not improved his condition and that he waited to file until May 20, 2012 so as to give his injury time to heal before filing.

By letter dated May 31, 2012, OWCP requested additional medical evidence from appellant, as the reports of Dr. Gebetsberger did not provide an opinion as to how appellant’s employment activities caused, contributed to or aggravated any diagnosed condition. It afforded appellant 30 days to submit this additional evidence. OWCP also requested that the employing establishment respond to its inquiries regarding his duties and facts surrounding his claim.

By letter dated June 11, 2012, the employing establishment responded to OWCP’s inquiries. It had conducted an investigative interview with appellant, in which he related that the same events detailed in his May 20, 2012 narrative statement.

The employing establishment described appellant’s duties as a rural mail carrier and noted that “[w]hen carried properly a rural carrier has no reason to reach behind the front of the vehicle to reach for packages or anything.”

By letter dated June 26, 2012, appellant stated that he would not be able to get a diagnosis and course of treatment for his shoulder injury until after the 30-day period has lapsed,

as he had a magnetic resonance imaging (MRI) scan performed on June 25, 2012. He was not able to get an appointment with a bone and joint specialist until after July 1, 2012.

By decision dated July 5, 2012, OWCP denied appellant's claim, finding that the medical evidence was not sufficient to establish that his duties as a rural carrier caused his occupational disease. Dr. Gebetsberger did not provide a rationalized medical opinion based upon objective findings as to how the diagnosis provided was caused by factors of appellant's federal employment. OWCP accepted that appellant performed work activities as described, but denied the claim as causal relation was not established.

Appellant requested reconsideration of OWCP's July 5, 2012 decision by letter dated January 10, 2013.

In a narrative statement dated January 11, 2013, appellant related that he had returned to Dr. Gebetsberger for further treatment. An x-ray and MRI scan were obtained that revealed a tear of the rotator cuff. Dr. Gebetsberger referred appellant to Dr. Gregory Holt, a Board-certified orthopedic surgeon for a second opinion. Appellant stated that Dr. Holt reviewed the diagnostic tests and concluded that there was a rotator cuff tear. Dr. Gebetsberger performed surgery to correct the tear on December 20, 2012. Appellant stated that medical records relating to his diagnosis and surgery would validate that his condition was caused by duties of his federal employment. He provided the mailing addresses for Dr. Holt and Dr. Gebetsberger. Appellant did not submit any medical records with his request for reconsideration.

By decision dated April 8, 2013, OWCP denied modification of its prior decision. Appellant's narrative statement dated January 11, 2013, and the employing establishment statement dated August 2, 2012, was insufficient to establish causal relationship between his injury and factors of his federal employment.

LEGAL PRECEDENT

An employee seeking benefits under FECA has the burden of establishing 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 filed within the applicable time limitation; that an injury was sustained while in the performance of duty as alleged and that any disability or specific condition for which compensation is claimed is causally related to the employment injury.² These are the essential elements of every compensation claim regardless of whether the claim is predicated on a traumatic injury or occupational disease.³

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

²Gary J. Watling, 52 ECAB 278, 279 (2001); Elaine Pendleton, 40 ECAB 1143, 1145 (1989).

³Michael E. Smith, 50 ECAB 313, 315 (1999).

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.

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence.⁴ Rationalized medical opinion evidence is medical evidence which includes a physician's reasoned opinion on whether there is a causal relationship between the claimant'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 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 The weight of medical evidence is determined by its reliability, its probative value, its convincing quality, the care of analysis manifested and the medical rationale expressed in support of the physician's opinion.⁶

ANALYSIS

Appellant filed a claim alleging that he developed an injury to his left shoulder causally related to factors of his federal employment. OWCP accepted that he performed duties as a rural route carrier as described. It denied appellant's claim as the medical evidence was insufficient to establish causal relation. The Board finds that he did not submit sufficient medical evidence to establish that he sustained a left shoulder injury causally related to factors of his federal employment.

The reports from Dr. Gebetsberger are of limited probative value because he did not provide adequate medical opinion explaining the causal relationship between the specific employment factors identified by appellant and his diagnosed left shoulder condition. In a patient plan dated January 11, 2012, Dr. Gebetsberger diagnosed bursitis and noted that appellant had received treatment. There was no explanation of the relationship between appellant's condition to specific work factors. His January 11, 2012 narrative report, again noted a diagnosis of bursitis and generally described reaching into the back of a vehicle with the left upper extremity as a specific work factor. Dr. Gebetsberger noted that such reaching was painful for appellant and would prolong his disability. He also recommended that appellant take time off work before resuming "aggravating activity." While Dr. Gebetsberger's report related a history of the employment factor appellant alleged caused his condition, this report is of limited probative value as Dr. Gebetsberger did not sufficiently address how medically appellant's reaching activity would cause or aggravate the diagnosed condition.

The report dated April 30, 2012 noted a diagnosis of rotator cuff syndrome, but also lacked any medical opinion in support of a causal relationship.

⁴*Elizabeth H. Kramm (Leonard O. Kramm)*, 57 ECAB 117, 123 (2005).

⁵*Leslie C. Moore*, 52 ECAB 132, 134 (2000).

⁶*Jennifer Atkerson*, 55 ECAB 317, 319 (2004); *Naomi A. Lilly*, 10 ECAB 560, 573 (1959).

Dr. Gebetsberger did not provide sufficient opinion describing how appellant sustained a left shoulder condition due to specific employment factors. The Board has held that neither the fact that a condition manifests itself or worsens during a period of employment⁷ or that work activities produce symptoms revelatory of an underlying condition⁸ raises an inference of causal relationship between a claimed condition and employment factors. The Board finds that Dr. Gebetsberger's reports are of diminished probative value and do not establish appellant's claim for a work-related shoulder condition.

Appellant submitted other documentation in support of his claim, including two narrative statements and a statement from his employing establishment notifying him that he needed to contact his supervisor regarding his leave status. This documentation is not medical evidence pertaining to the issue of whether his left shoulder condition is causally related to the accepted employment factors.

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 appellant did not meet his burden of proof to establish that he sustained a shoulder injury causally related to factors of his federal employment.

⁷*William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

⁸*Richard B. Cissel*, 32 ECAB 1910, 1917 (1981).

ORDER

IT IS HEREBY ORDERED THAT the April 8, 2013 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: November 12, 2013
Washington, DC

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

Patricia Howard Fitzgerald, Judge
Employees' Compensation Appeals Board

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