



duty on April 19, 2012. He stated that he felt pain in his shoulder while helping another employee move an automation rack. That same day, appellant reported the incident to his supervisor.

A May 22, 2014 right shoulder magnetic resonance imaging (MRI) scan revealed a slightly narrow subacromial space that predisposed appellant to impingement syndrome. There was also a small osseous protrusion at the anterior/inferior glenoid with slight cartilage loss. There was no intrinsic rotator cuff tear.

On June 6, 2012 appellant saw Dr. Devinder P. Singh, a chiropractor. He complained of work-related right shoulder pain that began on April 19, 2012. Dr. Singh did not provide a specific diagnosis.

On July 26, 2012 Dr. Mandeep Sandhu, a Board-certified internist, referred appellant for physical therapy with a diagnosis of right shoulder pain secondary to impingement syndrome.

On August 22, 2012 Dr. Matthew B. Gavin, a Board-certified orthopedic surgeon, examined appellant and diagnosed right shoulder adhesive capsulitis. He noted an April 19, 2012 date of injury when appellant was reportedly “pulling on something hard and felt a strain in the shoulder.” Dr. Gavin also noted that appellant had no prior shoulder problems. He advised that in most instances the condition gradually resolves over time and could take several months. Dr. Gavin further advised that, if there was no progress for at least three months, then surgery was an option.

Appellant saw Dr. Gavin for a follow-up examination on September 11, 2012. His right shoulder condition had not improved. They discussed the risks and benefits of surgery and appellant decided to try physical therapy for another month.

OWCP received appellant’s physical therapy treatment notes for the period July 30 through September 26, 2012.

Dr. Matthew H. Griffith, a Board-certified orthopedic surgeon, examined appellant on October 2, 2012 and diagnosed right shoulder impingement with biceps tendinosis and partial supraspinatus tear. He also diagnosed adhesive capsulitis. Dr. Griffith noted that appellant’s right shoulder symptoms began on April 19, 2012. He reported “pulling something at work.” Dr. Griffith discussed surgical options, but appellant opted for further conservative treatment, including additional physical therapy. He received a cortisone injection and was advised to follow up in six weeks.

OWCP initially denied the claim by decision dated October 16, 2012. Appellant established that the April 19, 2012 employment incident occurred as alleged and submitted medical evidence with a diagnosis of right shoulder adhesive capsulitis. However, OWCP found that appellant failed to establish that the diagnosed right shoulder condition was causally related to the April 19, 2012 employment incident.

Appellant has since requested reconsideration on three occasions. In support of his various requests, he submitted a December 7, 2012 report from Dr. Karnail Singh, an internist, who noted that appellant had been his patient since August 2009, and was seen for shoulder pain

resulting from an injury at work on May 14, 2012.<sup>2</sup> He noted that appellant had a right shoulder MRI scan and was referred to an orthopedic surgeon. Dr. Singh also noted that appellant had undergone intra-articular injections and physical therapy in an attempt to alleviate his right shoulder symptoms. He stated that there “appears to be a causal relationship between [appellant’s] injury at work and his symptoms.” OWCP also received progress notes covering the period May 16, 2012 through January 21, 2013.<sup>3</sup>

Additionally, appellant submitted an undated, unsigned letter purportedly from Dr. Singh. The letter included both typewritten and handwritten information. It was directed to OWCP and provided in relevant part that appellant reported having injured himself on April 19, 2012 moving “mail racks,” which he described as very large, heavy racks used to hold trays of mail. The remainder of the letter reads as follows: “Based upon my examination and review of test results, it (sic) reasonable to opinion (sic), the injury occurred at his place of employment as related to me by [appellant]. I further opinion (sic) a casual (sic) relationship exist (sic) between his injury and his employment.”

In response to appellant’s various requests for reconsideration, OWCP reviewed the merits of the claim and denied modification by decisions dated February 6, June 24 and December 27, 2013. In each instance, it continued to find that appellant had not established a causal relationship between his diagnosed right shoulder condition and the April 19, 2012 employment incident.

### **LEGAL PRECEDENT**

A claimant seeking benefits under FECA has the burden of establishing the essential elements of his claim by the weight of the reliable, probative and substantial evidence, including that an injury was sustained in the performance of duty as alleged and that any specific condition or disability claimed is causally related to the employment injury.<sup>4</sup>

To determine if an employee sustained a traumatic injury in the performance of duty, OWCP begins with an analysis of whether “fact of injury” has been established. Generally, fact of injury consists of two components that must be considered in conjunction with one another. The first component is whether the employee actually experienced the employment incident that allegedly occurred.<sup>5</sup> The second component is whether the employment incident caused a

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<sup>2</sup> Elsewhere in his report Dr. Singh identified April 19, 2012 as the date of injury.

<sup>3</sup> The treatment notes are handwritten and somewhat illegible. Moreover, the identity of the health care provider is unclear.

<sup>4</sup> 20 C.F.R. § 10.115(e), (f) (2012); see *Jacquelyn L. Oliver*, 48 ECAB 232, 235-36 (1996).

<sup>5</sup> *Elaine Pendleton*, 40 ECAB 1143 (1989).

personal injury.<sup>6</sup> An employee may establish that an injury occurred in the performance of duty as alleged, but fail to establish that the disability or specific condition for which compensation is being claimed is causally related to the injury.<sup>7</sup>

Certain health care providers such as physician assistants, nurse practitioners, physical therapists and social workers are not considered “physician[s]” as defined under FECA.<sup>8</sup> Consequently, their medical findings and/or opinions will not suffice for purposes of establishing entitlement to FECA benefits.<sup>9</sup>

### ANALYSIS

The Board finds that appellant failed to establish that he sustained an injury in the performance of duty on April 19, 2012. Appellant claimed to have injured his right shoulder assisting a coworker move an automation rack. He has been diagnosed with right shoulder impingement with bursitis-tendinitis and adhesive capsulitis. However, the medical evidence of record remains deficient and does not establish a causal relationship between the diagnosed right shoulder condition(s) and appellant’s accepted occupational exposure.

On June 6, 2012 appellant’s chiropractor reported complaints of work-related right shoulder pain that began on April 19, 2012, but he failed to provide a specific diagnosis. Dr. Sandhu, an internist, diagnosed impingement syndrome on July 26, 2012, but he did not identify a specific cause for appellant’s right shoulder condition.

Dr. Gavin, an orthopedic surgeon, examined appellant on August 22 and September 11, 2012 and diagnosed right shoulder adhesive capsulitis. His initial report noted an April 19, 2012 date of injury when appellant was reportedly “pulling on something hard and felt a strain in the shoulder.” Although appellant had no prior history of shoulder problems, Dr. Gavin’s reports are nonetheless insufficient because he failed to adequately explain how the “pulling” incident on April 19, 2012 either caused or contributed to the diagnosed condition.

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<sup>6</sup> *John J. Carlone*, 41 ECAB 354 (1989). Causal relationship is a medical question that generally requires rationalized medical opinion evidence to resolve the issue. See *Robert G. Morris*, 48 ECAB 238 (1996). A physician’s opinion on whether there is a causal relationship between the diagnosed condition and the implicated employment factor(s) must be based on a complete factual and medical background. *Victor J. Woodhams*, 41 ECAB 345, 352 (1989). Additionally, the physician’s opinion must be expressed in terms of a reasonable degree of medical certainty, and must be supported by medical rationale, explaining the nature of the relationship between the diagnosed condition and appellant’s specific employment factor(s). *Id.*

<sup>7</sup> *Shirley A. Temple*, 48 ECAB 404, 407 (1997).

<sup>8</sup> 5 U.S.C. § 8101(2); 20 C.F.R. § 10.5(t).

<sup>9</sup> *K.W.*, 59 ECAB 271, 279 (2007); *David P. Sawchuk*, 57 ECAB 316, 320 n.11 (2006). A report from a physician assistant or certified nurse practitioner will be considered medical evidence if countersigned by a qualified physician. Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3a(1) (January 2013).

Another orthopedic surgeon, Dr. Griffith, who examined appellant on October 2, 2012, also failed to explain how “pulling something at work” on April 19, 2012 either caused or contributed to his right shoulder impingement with bursitis-tendinitis and adhesive capsulitis.

Lastly, the two reports attributed to Dr. Singh, appellant’s internist since August 2009, are also deficient. In his December 7, 2012 report, Dr. Singh stated “there appears to be a causal relationship between [appellant’s] injury at work and his symptoms.” However, the report identified the date of injury as both April 19 and May 14, 2012. Apart from this discrepancy, Dr. Singh failed to describe appellant’s work injury in any detail. Moreover, he did not provide a specific diagnosis relative to appellant’s right shoulder pain and/or “symptoms.” A second report, which is unsigned and undated, purports to cure some of the above-noted defects, but it similarly failed to include a specific right shoulder diagnosis and the note is found to be poorly drafted.<sup>10</sup>

The medical evidence of record fails to establish a causal relationship between the accepted April 19, 2012 employment incident and appellant’s diagnosed right shoulder condition(s). Under the circumstances, OWCP properly denied his traumatic injury claim.

Appellant may submit new evidence or argument with a written request for reconsideration 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**

Appellant failed to establish that he sustained an injury in the performance of duty on April 19, 2012.

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<sup>10</sup> The unsigned/undated letter, which OWCP received on September 11, 2013, is similar in format to Dr. Singh’s December 7, 2012 report, but unlike the earlier report it was not on Dr. Singh’s letterhead. Also, the latter report was fraught with grammatical errors, and some of the included handwritten information resembled appellant’s May 8, 2012 written statement.

**ORDER**

**IT IS HEREBY ORDERED THAT** the December 27, 2013 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: October 2, 2014  
Washington, DC

Christopher J. Godfrey, Chief Judge  
Employees' Compensation Appeals Board

Patricia Howard Fitzgerald, Judge  
Employees' Compensation Appeals Board

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