

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

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**P.D., Appellant**

**and**

**U.S. POSTAL SERVICE, POST OFFICE,  
Lake Orion, MI, Employer**

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**Docket No. 16-0239  
Issued: May 4, 2016**

*Appearances:*

*Alan J. Shapiro, Esq., for the appellant  
Office of Solicitor, for the Director*

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

PATRICIA H. FITZGERALD, Deputy Chief Judge  
ALEC J. KOROMILAS, Alternate Judge  
VALERIE D. EVANS-HARRELL, Alternate Judge

**JURISDICTION**

On November 23, 2015 appellant, through counsel, filed a timely appeal from a June 26, 2015 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act<sup>1</sup> (FECA) and 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 has met his burden of proof to establish an occupational disease causally related to factors of his federal employment.

**FACTUAL HISTORY**

On October 3, 2013 appellant, then a 51-year-old substitute rural carrier, filed an occupational disease claim (Form CA-2) alleging that he sustained a torn rotator cuff in the performance of duty. He attributed his constant left shoulder pain to repetitive movement.

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<sup>1</sup> 5 U.S.C. § 8101 *et seq.*

Appellant indicated that he first became aware of his condition on May 3, 2013. He became aware of its relation to his federal employment on September 30, 2013. Appellant did not stop work.

Multiple disability status reports (CA-7 forms) were submitted. In a May 6, 2013 report, Dr. Paul Siatczynski, a Board-certified orthopedic surgeon, advised that appellant was totally incapacitated. In July 11 and September 30, 2013 disability status reports, he advised that appellant was unable to work over time.

By letter dated October 7, 2013, the employing establishment controverted appellant's claim. It advised that he requested light-duty work beginning in May 2013, but never indicated that he had a work injury.

An October 15, 2013 injury compensation notification form advised that appellant sustained a left shoulder injury and noted that he was restricted from doing overtime and working more than one route.

By letter dated October 21, 2013, OWCP advised appellant of the type of evidence needed to establish his claim.

A May 6, 2013 report from Lakeside Medical Group, P.C. with an illegible doctor's signature advised that appellant had a left shoulder injury.

In an October 22, 2013 statement, appellant advised that his employment activities included casing mail, reaching, grabbing, and lifting. He indicated that performing these repetitive motions thousands of times a day for the past eight years contributed to his condition. Appellant noted that his activities outside of his federal employment included golf, driving, and riding a mountain bike.

In a September 30, 2013 report, Dr. Siatczynski advised that appellant began having left shoulder pain on May 3, 2013 after sneezing. He noted that prior to that incident appellant had no issues. Dr. Siatczynski indicated that appellant had pain with elevation, internal rotation behind the back, weakness, and stiffness. A left shoulder x-ray revealed an os acromiale in the axillary view of the left shoulder, sclerosis on the undersurface of the acromion, and cystic changes of the greater tuberosity with some osteophyte formation. Dr. Siatczynski assessed a large tear of the supraspinatus and infraspinatus and atrophy of the infraspinatus fossa on the posterior scapula. He recommended surgery, but noted that appellant would have to pay cash as he did not have health insurance at that time.

In a November 7, 2013 report, Dr. Steven Hartz, a Board-certified osteopath specializing in family medicine, advised that he began treating appellant on May 5, 2013. He noted that appellant had been complaining of left shoulder pain for two months prior to an unfortunate sneeze that caused his condition to go from sub-acute to acute. Dr. Hartz indicated that he initially diagnosed acute tendinitis and that an x-ray and magnetic resonance imaging (MRI) scan later revealed a torn rotator cuff. Examination revealed reduced range of motion, reduced strength, and almost no abduction or reverse flexion. Dr. Hartz noted that even with a restricted work environment appellant was not improving. He advised that appellant was without health insurance and needed workers' compensation to initiate and complete needed treatment.

By decision dated January 30, 2014, OWCP denied appellant's claim as the medical evidence of record was insufficient to establish that he sustained a medical condition causally related to the accepted factors of his employment.

In a February 4, 2014 letter, appellant, through counsel, requested an oral telephone hearing before an OWCP hearing representative.

In July 1, 2013, and April 24 and 29, 2014 disability status reports, Dr. Hartz advised that appellant was restricted from working overtime, working more than eight hours per day, and working more than one route.

In an August 18, 2014 hearing, appellant reiterated that repetitive movements at work caused or contributed to his condition. He noted that a left shoulder MRI scan showed that he had a torn rotator cuff. Appellant advised that a sneeze while at work made his shoulder feel worse, but specified that he was already experiencing shoulder pain prior to this incident.

Dr. Siatczynski, in a September 30, 2013 report, advised that a left shoulder x-ray revealed an os acromiale in the axillary view of the left shoulder, sclerosis on the undersurface of the acromion, and cystic changes of the greater tuberosity with some osteophyte formation. In a September 30, 2013 diagnostic report, he advised that an ultrasound revealed significant tearing of the supraspinatus and infraspinatus with retraction and fluid around the biceps consistent with a synovitis.

In a January 20, 2014 report, Dr. Siatczynski advised that appellant was working 60 hours per week and wanted a doctor's note placing him on three days per week restriction. On examination he noted positive Neer sign, positive Speed's test, positive pain and weakness on stressing external rotation, pain stressing the supraspinatus, and Popeye deformity of the right arm. Dr. Siatczynski assessed chronic rotator cuff tear of the left shoulder. He opined that appellant needed to proceed with surgical intervention sooner rather than later if he hoped to regain function of the left shoulder.

By decision dated November 4, 2014, an OWCP hearing representative affirmed the January 30, 2014 denial of appellant's claim.

In a March 26, 2015 Family and Medical Leave Act form, Dr. Hartz advised that appellant was under his treatment for a left shoulder condition and noted that he required intermittent time off from work for medical appointments.

Appellant, through counsel, requested reconsideration on March 26, 2015.

In a December 8, 2014 report, Dr. Hartz advised that appellant injured his right shoulder when he sneezed. Examination revealed reduced grip strength and bicep tendon pain. Dr. Hartz assessed biceps tendinitis and rotator cuff tear. He opined that appellant's injury was exacerbated by his work and repetitive motions.

By decision dated June 26, 2015, OWCP denied modification of its prior decision.

## LEGAL PRECEDENT

An employee seeking benefits under FECA 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 FECA, that the claim was timely filed within the applicable time limitation, that an injury was sustained in the performance of duty as alleged and that any disabilities and/or specific conditions for which compensation is claimed are causally related to the employment injury.<sup>2</sup> These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.<sup>3</sup>

Whether an employee actually sustained an injury in the performance of duty begins with an analysis of whether fact of injury has been established. To establish an occupational disease claim, 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.<sup>4</sup>

Causal relationship is a medical issue and the evidence generally required to establish causal relationship is rationalized medical opinion evidence. Rationalized medical opinion evidence is generally required to establish causal relationship. The opinion of the physician must be based on a complete factual and medical background, 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>5</sup> 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.<sup>6</sup>

## ANALYSIS

There is no dispute that appellant's employment activities included casing mail, reaching, grabbing, and lifting. However, the Board finds that the medical evidence of record is insufficient to establish that factors of his federal employment caused or aggravated his left rotator cuff syndrome.

In a December 8, 2014 report, Dr. Hartz advised that appellant injured his right shoulder when he sneezed. He assessed biceps tendinitis and rotator cuff tear. Dr. Hartz opined that appellant's injury was exacerbated by his work and repetitive motions. This report is insufficient

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<sup>2</sup> *Elaine Pendleton*, 40 ECAB 1143 (1989).

<sup>3</sup> *Victor J. Woodhams*, 41 ECAB 345 (1989).

<sup>4</sup> *R.H.*, 59 ECAB 382 (2008); *Ernest St. Pierre*, 51 ECAB 623 (2000).

<sup>5</sup> *I.J.*, 59 ECAB 408 (2008); *supra* note 3.

<sup>6</sup> *James Mack*, 43 ECAB 321 (1991).

to discharge appellant's burden of proof as it is not sufficiently rationalized. Although Dr. Hartz attributed appellant's condition to his work, he did not explain how these work activities caused his diagnosed conditions. The Board has long held that medical opinions not containing rationale on causal relation are of diminished probative value and are generally insufficient to meet appellant's burden of proof.<sup>7</sup> Further, Dr. Hartz did not provide an accurate factual background as he indicated that appellant sustained a right shoulder injury rather than a left shoulder injury as claimed by appellant. It is well established that medical reports must be based on a complete and accurate factual and medical background and medical opinions based on an incomplete or inaccurate history are of little probative value.<sup>8</sup> In his November 7, 2013 report, Dr. Hartz advised that appellant had been complaining of left shoulder pain for two months prior to an unfortunate sneeze that caused him to go from a sub-acute situation to an acute one. He noted that even with a restricted work environment appellant was not improving and advised that he needed workers' compensation to provide treatment. This report is insufficient to discharge appellant's burden of proof as it does not attribute appellant's diagnosed condition to factors of his employment. Although Dr. Hartz noted that appellant was not improving while working restricted duties and indicated that he needed workers' compensation to pay for his treatment, he failed to relate appellant's work duties to his diagnosed condition.

In his January 20, 2014 report, Dr. Siatczynski advised that appellant was working 60 hours per week and wanted a doctor's note placing him on three days per week restriction. He assessed chronic rotator cuff tear of the left shoulder and opined that appellant needed to proceed with surgery sooner rather than later if he hoped to regain function of the left shoulder. Although Dr. Siatczynski noted that appellant was having difficulty working, he attributed his condition to a sneeze. In his September 30, 2013 report, he advised that appellant began having left shoulder pain on May 3, 2013 after sneezing. Dr. Siatczynski noted that prior to that incident appellant had no issues and assessed a large tear of the supraspinatus and infraspinatus with atrophy of the infraspinatus fossa on the posterior scapula. Again, he attributed appellant's condition to a sneeze and indicated that appellant was symptom free prior to the incident. These reports are insufficient to discharge appellant's burden of proof as they fail to attribute his diagnosed condition to any factor of his employment. The mere fact that the sneeze occurred while appellant was at work does not make it a factor of his employment. Other reports by Dr. Siatczynski are also insufficient to discharge appellant's burden of proof as they do not address causal relationship.<sup>9</sup>

Other medical reports submitted, including disability status and diagnostic reports, are of limited probative value and insufficient to discharge appellant's burden of proof as they do not address causal relationship.<sup>10</sup>

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<sup>7</sup> *Carolyn F. Allen*, 47 ECAB 240 (1995).

<sup>8</sup> *Douglas M. McQuaid*, 52 ECAB 382 (2001).

<sup>9</sup> *See Jaja K. Asaramo*, 55 ECAB 200 (2004) (medical evidence that does not offer an opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship).

<sup>10</sup> *Id.*

Consequently, the Board finds that appellant has submitted insufficient medical evidence to establish his claim. Causal relationship is a medical question that must be established by probative medical opinion from a physician.<sup>11</sup> The physician must accurately describe appellant's work duties and medically explain the pathophysiological process by which these duties would have caused or aggravated his condition.<sup>12</sup>

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 has not met his burden of proof to establish an occupational disease causally related to factors of his federal employment.

### **ORDER**

**IT IS HEREBY ORDERED THAT** the June 26, 2015 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: May 4, 2016  
Washington, DC

Patricia H. Fitzgerald, Deputy Chief Judge  
Employees' Compensation Appeals Board

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

Valerie D. Evans-Harrell, Alternate Judge  
Employees' Compensation Appeals Board

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<sup>11</sup> *Jennifer Atkerson*, 55 ECAB 317 (2004).

<sup>12</sup> *Solomon Polen*, 51 ECAB 341 (2000) (rationalized medical evidence must relate specific employment factors identified by the claimant to the claimant's condition, with stated reasons by a physician). *See also S.T.*, Docket No. 11-237 (issued September 9, 2011).