

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

LETTY R. AMAGAN, Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Santa Clara, CA, Employer**

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**Docket No. 03-2222
Issued: December 5, 2003**

*Letty R. Amagan, pro se
Office of Solicitor, for the Director*

Case Submitted on the Record

DECISION AND ORDER

Before:

ALEC J. KOROMILAS, Chairman
COLLEEN DUFFY KIKO, Member
DAVID S. GERSON, Alternate Member

JURISDICTION

On September 11, 2003 appellant filed a timely appeal from the Office of Workers' Compensation Programs merit decision dated June 25, 2003. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has *de novo* jurisdiction over the merits of the case.

ISSUE

The issue is whether appellant has met her burden of proof to establish that she sustained a left shoulder condition while in the performance of duty.

FACTUAL HISTORY

On April 11, 2003 appellant, then a 49-year-old city courier filed an occupational disease claim alleging that she developed an overuse injury to her left shoulder as a result of repeatedly pulling mail above her shoulder, opening boxes, opening the car door and driving. She indicated

that she first became aware of the injury and its relation to her work on March 27, 2003.¹ Appellant asserted that she experienced sharp and burning pain in her left shoulder which radiated to her shoulder blade, through her neck and down to her palm. The reverse side of the claim form indicated that appellant received medical treatment for the claimed injury on March 9, 2003 and returned to work on March 11, 2003.

On April 30, 2003 the Office requested additional information, including a medical report from the physician who treated her left shoulder injury, a diagnosis and a medical opinion on the cause. The Office advised appellant that it was her responsibility to submit the requested information within 30 days to avoid denial of her claim.

On June 25, 2003 the Office, having received no response, rejected appellant's claim for compensation for the reason that fact of injury was not established.

Following the Office decision, and on appeal, appellant submitted additional evidence to support her claim. The Board's jurisdiction, however, is limited to reviewing the evidence that was before the Office at the time of its final decision. The Board therefore has no jurisdiction to review any evidence submitted to the record after the Office's June 25, 2003 decision.²

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act³ 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 the Act, that the claim was timely filed within the applicable time limitation period of the Act, that an injury was sustained in the performance of duty as alleged and that any disability and/or specific condition for which compensation is claimed are causally related to the employment injury.⁴ These are the essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁵

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

¹ On appeal appellant alleged that the Office incorrectly identified the date of the alleged injury as March 9, 2003. While the Office listed the date of the claimed injury as March 9, 2003 on a letter to appellant, it is clear from the record that the Office has acknowledged appellant's claim that the injury occurred over a period of time prior to April 11, 2003.

² See 20 C.F.R. § 501.2(c).

³ 5 U.S.C. §§ 8101-8193.

⁴ *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

⁵ See *Delores C. Ellyett*, 41 ECAB 992, 994 (1990); *Ruthie M. Evans*, 41 ECAB 416, 423-25 (1990).

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. The medical evidence required to establish a causal relationship is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on the issue of whether there is a causal relationship between the claimant's diagnosed 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.⁶

ANALYSIS

In the instant case, appellant did not provide the required factual and medical evidence to establish a *prima facie* claim for a medical condition in the performance of duty. Evidence which includes a medical report is necessary to establish that the condition for which she claimed she sought treatment, was related to her employment. Although the Office advised appellant in a letter dated April 30, 2003 that it was her responsibility to establish that she developed a left shoulder condition due to repeated employment activities, as alleged, appellant submitted no corroborating evidence within the allotted time, such as a report by the doctor who treated her, to establish her claim for benefits under the Act.

CONCLUSION

Under the circumstances described above, the Board finds that appellant has not met her burden of proof in establishing that she developed a left shoulder condition in the performance of duty.

⁶ See *Victor J. Woodhams*, 41 ECAB 345, 351-52 (1989).

ORDER

IT IS HEREBY ORDERED THAT the June 25, 2003 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: December 5, 2003
Washington, DC

Alec J. Koromilas
Chairman

Colleen Duffy Kiko
Member

David S. Gerson
Alternate Member